

SENATE BILL 5345

State of Washington

52nd Legislature

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By Senators Matson, Owen, Anderson, Gaspard, McCaslin, Stratton, Newhouse, Moore, Oke and Murray.

Read first time January 29, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to self-insured employers; and amending RCW
2 51.32.055.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.055 and 1988 c 161 s 13 are each amended to read
5 as follows:

6 (1) One purpose of this title is to restore the injured worker as
7 near as possible to the condition of self-support as an able-bodied
8 worker. Benefits for permanent disability shall be determined under
9 the director's supervision only after the injured worker's condition
10 becomes fixed.

11 (2) All determinations of permanent disabilities shall be made by
12 the department. Either the worker, employer, or self-insurer may make
13 a request or such inquiry may be initiated by the director on his or
14 her own motion. Such determinations shall be required in every
15 instance where permanent disability is likely to be present. All

1 medical reports and other pertinent information in the possession of or
2 under the control of the employer or self-insurer shall be forwarded to
3 the director with such requests.

4 (3) A request for determination of permanent disability shall be
5 examined by the department and an order shall issue in accordance with
6 RCW 51.52.050.

7 (4) The department may require that the worker present himself or
8 herself for a special medical examination by a physician, or
9 physicians, selected by the department, and the department may require
10 that the worker present himself or herself for a personal interview.
11 In such event the costs of such examination or interview, including
12 payment of any reasonable travel expenses, shall be paid by the
13 department or self-insurer as the case may be.

14 (5) The director may establish a medical bureau within the
15 department to perform medical examinations under this section.
16 Physicians hired or retained for this purpose shall be grounded in
17 industrial medicine and in the assessment of industrial physical
18 impairment. Self-insurers shall bear a proportionate share of the cost
19 of such medical bureau in a manner to be determined by the department.

20 (6) Where dispute arises from the handling of any claims prior to
21 the condition of the injured worker becoming fixed, the worker,
22 employer, or self-insurer may request the department to resolve the
23 dispute or the director may initiate an inquiry on his or her own
24 motion. In such cases the department shall proceed as provided in this
25 section and an order shall issue in accordance with RCW 51.52.050.

26 (7)(a) In the case of claims accepted by self-insurers after June
27 30, 1986, (~~and before July 1, 1990,~~) which involve only medical
28 treatment and/or the payment of temporary disability compensation under
29 RCW 51.32.090 and which at the time medical treatment is concluded do
30 not involve permanent disability, if the claim is one with respect to

1 which the department has not intervened under subsection (6) of this
2 section, and the injured worker has returned to work with the self-
3 insured employer of record, such claims may be closed by the self-
4 insurer, subject to reporting of claims to the department in a manner
5 prescribed by department rules adopted under chapter 34.05 RCW.

6 (b) All determinations of permanent disability for claims accepted
7 by self-insurers after June 30, 1986, and before July 1, 1990, shall be
8 made by the self-insured section of the department under subsections
9 (1) through (4) of this section.

10 (c) Upon closure of claims under (a) of this subsection the self-
11 insurer shall enter a written order, communicated to the worker and the
12 department self-insurance section, which contains the following
13 statement clearly set forth in bold face type: "This order constitutes
14 notification that your claim is being closed with medical benefits and
15 temporary disability compensation only as provided, and with the
16 condition you have returned to work with the self-insured employer. If
17 for any reason you disagree with the conditions or duration of your
18 return to work or the medical benefits or the temporary disability
19 compensation that has been provided, you may protest in writing to the
20 department of labor and industries, self-insurance section, within
21 sixty days of the date you received this order." In the event the
22 department receives such a protest the self-insurer's closure order
23 shall be held in abeyance. The department shall review the claim
24 closure action and enter a determinative order as provided for in RCW
25 51.52.050.

26 (d) If within two years of claim closure the department determines
27 that the self-insurer has made payment of benefits because of clerical
28 error, mistake of identity, or innocent misrepresentation, or the
29 department discovers a violation of the conditions of claim closure,
30 the department may require the self-insurer to correct the benefits

1 paid or payable. This paragraph shall not limit in any way the
2 application of RCW 51.32.240.

3 (8) In the case of claims accepted by self-insurers after June 30,
4 1990, which involve only medical treatment and which do not involve
5 payment of temporary disability compensation under RCW 51.32.090 and
6 which at the time medical treatment is concluded do not involve
7 permanent disability, such claims may be closed by the self-insurers
8 subject to reporting of claims to the department in a manner prescribed
9 by department rules promulgated pursuant to chapter 34.05 RCW. Upon
10 such closure the self-insurers shall enter a written order,
11 communicated to the worker, which contains the following statement
12 clearly set forth in bold-face type: "This order constitutes
13 notification that your claim is being closed with medical benefits
14 only, as provided. If for any reason you disagree with this closure,
15 you may protest in writing to the Department of Labor and Industries,
16 Olympia, within 60 days of the date you received this order. The
17 department will then review your claim and enter a further
18 determinative order." In the event the department receives such a
19 protest it shall review the claim and enter a further determinative
20 order as provided for in RCW 51.52.050.