

HOUSE BILL REPORT

HB 2041

As Reported By House Committee On:

Commerce & Labor
Appropriations

Title: An act relating to employers failure to pay industrial insurance premiums.

Brief Description: Limiting industrial insurance benefits for employees of illegally insured employers.

Sponsors: Representatives Honeyford, Thompson, Sherstad, Mielke and Koster.

Brief History:

Committee Activity:

Commerce & Labor: 2/26/97, 3/5/97 [DPS];

Appropriations: 3/8/97 [DP2S(w/o sub CL)].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements; Hatfield and Lisk.

Minority Report: Do not pass. Signed by 3 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; and Cole.

Staff: Chris Cordes (786-7103).

Background: The industrial insurance law provides medical benefits, compensation for lost wages, and vocational services, as appropriate, to all workers in covered occupations who are injured in the course of their employment or who incur an occupational disease.

Covered employers must either be insured with the state fund administered by the Department of Labor and Industries or self-insured. Employers who do not insure their workers are subject to a maximum penalty of \$500 or double the amount of premiums that were incurred before coverage was obtained. If the employer willfully fails to obtain coverage, the employer is guilty of a misdemeanor with a fine of \$25 to \$100 for each day of violation. Employers are also liable for a penalty of 50 to 100 percent of the cost of benefits paid to a worker who is injured before coverage is obtained.

Civil penalties owing under the industrial insurance law are collected by civil action in the name of the state. Employers who default in the payment of premiums are issued a notice of assessment. A final assessment may be filed in superior court as a judgment and, after filing, the amount of the assessment is a lien against the employer's interest in real and personal property. To collect the judgment, the department may proceed as permitted by law for executing the judgment and may issue a notice to any person, business, or government agency to withhold and deliver property that belongs to the employer owing the premiums.

Summary of Substitute Bill:

Intent statement

The Legislature finds a continuing problem with employers who illegally fail to insure their workers for industrial insurance. This problem results in passing the cost of benefits provided to injured workers of these uninsured employers to insured employers in the risk classification. The Legislature intends to place this financial burden on the illegally uninsured employer.

Provision of benefits

If a worker of an illegally uninsured employer files for industrial insurance benefits, the worker is entitled only to medical benefits. However, all benefits are payable if an employee provides payroll records, canceled checks, pay stubs, or other documentation indicating that the worker had reason to believe the premiums were being paid on the worker's behalf.

All costs related to the benefits are the obligation of the illegally uninsured employer and may not be charged to any other employer. If the illegally insured employer fails to pay the actual or estimated costs, whichever is greater, within 10 days of a demand by the Department of Labor and Industries, the department may recover judgment or file liens on the employer's assets as provided under the industrial insurance law.

The director of the department must report biennially to the Legislature concerning the money paid for benefits to workers of illegally uninsured employers and not recovered from their employers.

An appropriation from industrial insurance trust funds is made to enhance employer compliance activities in the industrial insurance program.

Substitute Bill Compared to Original Bill: The language of the original bill is clarified. An employee who produces documentation showing that he or she had reason to believe that premiums were being paid will receive all benefits, if otherwise

entitled. The department is authorized to demand payment of the costs of benefits paid and to collect under its existing authority. An appropriation from the medical aid and accident funds is added to enhance enforcement of employer compliance with industrial insurance laws.

Appropriation: \$600,000 from the industrial insurance medical aid and accident funds to the Department of Labor and Industries.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The current industrial insurance system results in a subsidization of employers who fail to purchase industrial insurance coverage by those employers who do. Many employees participate in this problem by taking cash wages, knowing that no coverage has been purchased for them. This bill would create incentives for both employers and employees to take responsibility for the problems that result from lack of coverage.

Testimony Against: Although the problems created for legal businesses who compete with illegal ones are recognized, this bill is not the answer and does not achieve its goal of punishing illegal employers. Employees frequently know nothing about the industrial insurance system or their employer's obligation to participate. Many employees also do not keep pay stubs or other documentation that they would need under this bill to get their benefits. The Department of Labor and Industries has authority to penalize the employers who fail to insure for industrial insurance. The problem that really needs to be addressed is the department's lack of funding for enforcement activities.

Testified: (In support) Bill Hewitt and Dick Ducharme, Building Industry Association of Washington. (Opposed) Bob Dilger, Washington State Building and Construction Trades Council; Allan Darr, International Union of Operating Engineers; Dan Sexton, United Association of Plumbers and Pipefitters; Robby Stern, Washington State Labor Council; Wayne Lieb, Washington State Trial Lawyers Association; Kathy Kimbel, Department of Labor and Industries; and Dick King, International Brotherhood of Electrical Workers.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Commerce & Labor. Signed by 16 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; Carlson; Cooke; Crouse; Dyer; Lambert; Lisk; McMorris; Parlette; D. Schmidt; Sehlin; Sheahan and Talcott.

Minority Report: Do not pass. Signed by 15 members: Representatives H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Chopp; Cody; Grant; Keiser; Kenney; Kessler; Linville; Mastin; Poulsen; Regala and Tokuda.

Staff: Jim Lux (786-7152).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Commerce & Labor: The appropriations from the Accident Fund and Medical Aid Funds are removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: The underground economy is a problem in this state and this legislation is necessary to get at this illegal activity. Workers need to comply with the law.

Testimony Against: This legislation is a radical shift from the no-fault insurance approach that this state has historically followed.

Testified: Tom Kwieciak, Building Industry Association of Washington (pro); and Suzanne Mager and Doug Connell, Labor and Industries (con).