

# HOUSE BILL REPORT

## HB 1051

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### As Reported By House Committee On:

Commerce & Labor

**Title:** An act relating to the statute of limitations for the repayment or recoupment of industrial insurance benefits induced by claimant fraud.

**Brief Description:** Recovering industrial insurance benefits payments.

**Sponsors:** Representatives Conway, Clements, Anderson, Stensen, Keiser, Kessler, Ogden, Lantz, Rockefeller, Hurst, Wood and McIntire; by request of Department of Labor & Industries.

### Brief History:

#### Committee Activity:

Commerce & Labor: 1/27/99, 2/4/99 [DP].

#### Brief Summary of Bill

- Allows three years from the discovery of fraud for ordering repayment of fraudulently obtained industrial insurance benefits.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hurst; Lisk; McIntire and McMorris.

**Staff:** Chris Cordes (786-7103).

### Background:

To show that a person fraudulently obtained industrial insurance benefits, the Department of Labor and Industries must prove nine elements of fraud, including that the person knowingly represented a material fact as true when it was false with intent that the fact would be acted on by the person to whom the representation was made. The nine fraud elements must be proved by clear and convincing evidence.

A person found to have committed fraud is subject to several penalties:

- The person must repay the benefits, along with a penalty of 50 percent of the benefits. This amount may be recouped from the person's future benefits on any claim with the state fund or the self-insurer against whom the fraud was committed. The demand or order for repayment or recoupment must be made within one year of the discovery of the fraud. The penalty amount is deposited in the supplemental pension fund.
- The person may be subject to criminal prosecution for the fraud claim. The prosecution generally must be brought within three years of the commission of the fraud.

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**Summary of Bill:**

The one-year time period, following the discovery of fraud, that the Department of Labor and Industries has to order repayment or recoupment of fraudulently obtained industrial insurance benefits is changed to a three-year time period.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 27, 1999.

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

**Testimony For:** A one-year time period for investigating fraud is sometimes too short. The legal burden that must be met before proceeding on a fraud claim is very high. The agency needs to be sure there is substantial evidence. Most fraud claims are initiated by anonymous calls, which means spending time sorting out the valid claims. The department does not anticipate using the full three years in every investigation.

**Testimony Against:** None.

**Testified:** Kathy Willis and John Stanislav, Department of Labor and Industries; Clif Finch, Association of Washington Business; and Kathleen Collins, Washington Self-Insurers Association.