
Commerce & Labor Committee

HB 3058

Brief Description: Regarding industrial insurance benefits induced by fraud.

Sponsors: Representatives McCoy, Conway, Wood, Hudgins, Kenney and Chase; by request of Department of Labor & Industries.

Brief Summary of Bill

- Defines it as fraud when industrial insurance benefits are obtained by willful false statement, willful misrepresentation or concealment of a material fact, or other willful deceptive scheme or device.

Hearing Date: 2/3/04

Staff: Chris Cordes (786-7103).

Background:

When an injured worker files a claim application with the Department of Labor and Industries (Department) or self-insurer, the worker provides certain information, including information about the injury or exposure, marital status, dependents, and employment. The application must be signed by the worker under a statement declaring the information to be true, to the worker's best knowledge and belief.

If the Department of Labor and Industries (Department) or a self-insured employer pays industrial insurance benefits that are induced by fraud, the recipient of the benefits must repay the amount with a penalty of 50 percent of the benefits. The total amount may also be recouped from future benefits. Recovered penalties are paid into the supplemental pension fund.

The industrial insurance law does not define "fraud." Instead, to prove that the payment of industrial insurance benefits have been induced by fraud, the Department must prove common law civil fraud, which is found if all of the following are shown by clear, cogent, and convincing evidence:

- the person represented an existing fact;
- the fact was material;
- the fact was false;
- the person knew that the fact was false or was ignorant of its truth;
- the person intended the Department or self-insurer to act on the fact;
- the Department or self-insurer was ignorant of the falsity of the fact;
- the Department or self-insurer relied on the truth of the representation;

- the Department or self-insurer had a right to rely on the representation; and
- the Department or self-insurer was damaged as a consequence.

Summary of Bill:

It is fraud if a person obtains industrial insurance payments or benefits that are more than the amount to which he or she is otherwise entitled by means of:

- willful false statements;
- willful misrepresentation or concealment of a material fact; or
- other willful deceptive scheme or device.

A "material fact" is one that would affect the Department or self-insurer's determination of entitlement to benefits, including facts about physical restrictions, ability to work, and activities which result or would reasonably be expected to result in wages or income. The Department is authorized to impute wages when wage information cannot be reasonably determined for activities that would reasonably be expected to result in wages or income.

The Department may adopt rules to implement these new fraud provisions. These new provisions apply to fraud determinations issued on or after July 1, 2004.

Rules Authority: The bill allows the Department to adopt rules regarding obtaining benefits by fraud.

Appropriation: None.

Fiscal Note: Requested on January 30, 2004.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.