S-3828.1			

SENATE BILL 6395

State of Washington

58th Legislature

2004 Regular Session

By Senator Honeyford

Read first time 01/19/2004. Referred to Committee on Commerce & Trade.

- 1 AN ACT Relating to applications for compensation under the
- 2 industrial insurance system; and amending RCW 51.28.010, 51.28.055,
- 3 51.28.040, and 51.32.160.

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- 4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 5 Sec. 1. RCW 51.28.010 and 2001 c 231 s 1 are each amended to read 6 as follows:
 - (1) Whenever any accident occurs to any worker it ((shall be)) is the duty of ((such)) the worker or someone ((in)) on his or her behalf to ((forthwith)) report ((such)) the accident to his or her employer, superintendent, or supervisor in charge of the work((, and)) within fourteen days after the accident. A claim for an injury due to an
- 11 <u>fourteen days after the accident.</u> A claim for an injury due to an
- 12 accident that was not timely reported may be allowed only for medical
- 13 <u>aid benefits under chapter 51.36 RCW.</u>
- 14 (2) When an employer receives a notice of an accident as required
- under subsection (1) of this section, it is the duty of the employer to
- 16 at once report such accident and the injury resulting therefrom to the
- 17 department pursuant to RCW 51.28.025 where the worker has received
- 18 treatment from a physician, has been hospitalized, disabled from work,
- 19 or has died as the apparent result of such accident and injury.

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((\(\frac{(2)}{)}\)) (3) Upon receipt of ((\(\frac{\text{such}}{)}\)) the notice of accident required under RCW 51.28.025, the department shall immediately forward to the worker or his or her beneficiaries or dependents notification, in nontechnical language, of their rights under this title. The notice must specify the worker's right to receive health services from a physician of the worker's choice under RCW 51.36.010, including chiropractic services under RCW 51.36.015, and must list the types of providers authorized to provide these services.

- **Sec. 2.** RCW 51.28.055 and 2003 2nd sp.s. c 2 s 1 are each amended to read as follows:
- (1) Whenever a physician notifies a worker of the existence of an occupational disease, the worker or someone on his or her behalf must report the existence of the disease to his or her employer, superintendent, or supervisor in charge of the work within fourteen days after the notification. A claim for an occupational disease the existence of which was not timely reported may be allowed only for medical aid benefits under chapter 51.36 RCW.
- (2) Except as provided in subsection $((\frac{(2)}{2}))$ (3) of this section for claims filed for occupational hearing loss, claims for occupational disease or infection to be valid and compensable must be filed within two years following the date the physician notifies the worker $(\frac{had}{had})$ written notice from a physician: (a)) of the existence of his or her occupational disease($(\frac{had}{had})$ that a claim for disability benefits may be filed. The notice shall also contain a statement that the worker has two years from the date of the notice to file a claim. The physician shall file the notice with the department. The department shall send a copy to the worker and to the self-insurer if the worker's employer is self-insured)). However, a claim is valid if it is filed within two years $((\frac{from}{had}))$ after the date of death of the worker suffering from an occupational disease.
- $((\frac{(2)}{(2)}))$ (3)(a) Except as provided in (b) of this subsection, to be valid and compensable, claims for hearing loss due to occupational noise exposure must be filed within two years $((\frac{1}{0}))$ after the date of the worker's last injurious exposure to occupational noise in employment covered under this title or within one year $((\frac{1}{0}))$ after September 10, 2003, whichever is later.

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- 1 (b) A claim for hearing loss due to occupational noise exposure 2 that is not timely filed under (a) of this subsection ((can only)) may 3 be allowed only for medical aid benefits under chapter 51.36 RCW.
- $((\frac{3}{3}))$ <u>(4)</u> The department may adopt rules to implement this section.
- 6 Sec. 3. RCW 51.28.040 and 1977 ex.s. c 199 s 1 are each amended to read as follows:
- ((If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor.)) Where the worker's application to reopen a claim has been granted under RCW 51.32.160, compensation and other benefits, if in order, shall be allowed for periods of time up to sixty days prior to the receipt of such application.
- **Sec. 4.** RCW 51.32.160 and 1995 c 253 s 2 are each amended to read 15 as follows:

- (1)(a) If aggravation, diminution, or termination of disability takes place, the director may, upon the application of the beneficiary, made within seven years from the date the first closing order becomes final, or at any time upon his or her own motion, readjust the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment: PROVIDED, That the director may, upon application of the worker made at any time, provide proper and necessary medical and surgical services as authorized under RCW 51.36.010. The department shall promptly mail a copy of the application to the employer at the employer's last known address as shown by the records of the department.
- (b) "Closing order" as used in this section means an order based on factors which include medical recommendation, advice, or examination.
- (c) Applications for benefits where the claim has been closed without medical recommendation, advice, or examination are not subject to the seven year limitation of this section. The preceding sentence shall not apply to any closing order issued prior to July 1, 1981. First closing orders issued between July 1, 1981, and July 1, 1985, shall, for the purposes of this section only, be deemed issued on July 1, 1985. The time limitation of this section shall be ten years in claims involving loss of vision or function of the eyes.

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(d)(i) With respect to an application to reopen a claim filed on or after July 1, 1988, but before the effective date of this section, if an order denying ((an)) the application to reopen ((filed on or after July 1, 1988,)) is not issued within ninety days of receipt of such application by the self-insured employer or the department, such application shall be deemed granted. ((However,))

- (ii) With respect to an application to reopen a claim filed on or after the effective date of this section:
- (A) The self-insured employer or department, as applicable, must notify the worker by mail at the worker's last known address as shown by department records that the application has been received.
- (B) If an order denying or granting the application is not issued within ninety days of mailing notice to the worker of receipt of the application, such application shall be deemed granted.
- (iii) For good cause, the department or self-insurer may extend the time for making the final determination on the application $\underline{\text{filed under}}$ $\underline{\text{(d)(i) or (ii) of this subsection}}$ for an additional sixty days.
- (2) If a worker receiving a pension for total disability returns to gainful employment for wages, the director may suspend or terminate the rate of compensation established for the disability without producing medical evidence that shows that a diminution of the disability has occurred.
- (3) No act done or ordered to be done by the director, or the department prior to the signing and filing in the matter of a written order for such readjustment shall be grounds for such readjustment.

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