CERTIFICATION OF ENROLLMENT

SENATE BILL 5875

67th Legislature
2022 Regular Session

Passed by the Senate February 11, 2022
Yea 28  Nay 21

President of the Senate

Passed by the House March 2, 2022
Yea 53  Nay 41

Secretary

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is SENATE BILL 5875 as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to adding employees employed by the department of licensing who are assigned to review, process, approve, and issue driver licenses to the definition of frontline employees under the health emergency labor standards act; and amending RCW 51.32.181.

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

Sec. 1. RCW 51.32.181 and 2021 c 252 s 1 are each amended to read as follows:

(1) For frontline employees who are covered under this title, there exists a prima facie presumption that any infectious or contagious diseases that are transmitted through respiratory droplets or aerosols, or through contact with contaminated surfaces and are the subject of a public health emergency are occupational diseases under RCW 51.08.140 during a public health emergency.

(2) The frontline employee must provide verification, as required by the department by rule, to the department and the self-insured employer that the employee has contracted the infectious or contagious disease that is the subject of the public health emergency.

(3) This presumption of occupational disease may be rebutted by a preponderance of the evidence that:
(a) The exposure to the infectious or contagious disease which is
the subject of the public health emergency occurred from other
employment or nonemployment activities; or

(b) The employee was working from the employee's home, on leave
from the employee's employment, or some combination thereof, for the
period of quarantine consistent with recommended guidance from state
and federal health officials for the disease immediately prior to the
employee's injury, occupational disease, or period of incapacity that
resulted from exposure to the disease which is the subject of the
public health emergency.

(4)(a) RCW 51.32.090(7) does not apply to an occupational disease
under this section except that no worker shall receive compensation
for or during the day on which the occupational disease was
contracted. For the purposes of this subsection (4), the day on which
the occupational disease was contracted is whichever date occurs
first of the following:

(i) The date that the worker first missed work due to symptoms of
the infectious or contagious disease;

(ii) The date the worker was quarantined by a medical provider or
public health official; or

(iii) The date the worker received a positive test result
confirming contraction of the infectious or contagious disease.

(b) If leave or similar benefits are paid to the frontline
employee as part of a federal or state program for these employees
during the public health emergency, temporary total disability
benefits are not payable for the same period of time covered by the
federal or state program.

(5) When calculating assessments due to the department for which
total claim costs are the basis, self-insured employers and self-
insurance hospital groups formed under RCW 51.14.150 and 51.14.160
may deduct the cost of payments made under this section from the
total of all claim costs reported.

(6) Costs of the payments under this section shall not affect the
experience rating of employers insured by the state fund.

(7) As used in this section:

(a) "Assisted living facility" has the same meaning as in RCW
18.20.020.

(b) "Farm work" means work performed on a farm, in the employ of
any person, in connection with the cultivation of the soil, or in
connection with raising or harvesting any agricultural or

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horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment. For the purposes of this subsection, "farm work" includes floriculture.

(c) "Food distribution work" means work where the primary duties include transporting food from food producers or manufacturers to food warehouses or food service operators and retailers.

(d) "Food manufacturing work" means work performed for an employer whose North American industry classification code is within "311."

(e) "Food processing work" means work handling or processing of any food in any manner of preparation for sale for an employer required to be licensed by the department of agriculture under chapter 69.07 RCW.

(f) "Frontline employee" includes the following employees:

(i) First responders, including law enforcement officers, firefighters, emergency medical service providers, paramedics, and ambulance drivers. "Firefighters" includes wildland firefighters when performing wildfire suppression or other emergency duties under the incident command system if the firefighter has in-person interaction with the general public or other firefighters as part of their job duties;

(ii) Employees performing food processing, food manufacturing, food distribution, farm, and meat packing work;

(iii) Maintenance, janitorial, and food service workers at any facility treating patients diagnosed with the infectious or contagious disease that is the subject of the public health emergency;

(iv) Drivers and operators employed by a transit agency or any other public entity authorized under state law to provide mass transportation services to the general public;

(v) Employees working at a child care facility licensed by the department of children, youth, and families under chapter 43.216 RCW, if the employee has in-person interaction with children or other members of the general public as part of their job duties;

(vi) Employees employed by a retail store that remains open to the general public during the public health emergency, if the
employee has in-person interaction with the general public as part of
their job duties or has in-person interaction with other employees.
For the purposes of this subsection, "retail store" means a business
whose North American industry classification code is within "44-45";
(vii) Employees employed by a hotel, motel, or other transient
accommodation licensed under chapter 70.62 RCW that remains open to
the general public during the public health emergency, if the
employee has in-person interaction with the general public as part of
their job duties or has in-person interaction with other employees;
(viii) Employees employed by a restaurant, if the employee has
in-person interaction with the general public as part of their job
duties or works in the kitchen of the restaurant and has in-person
interaction with other employees. For the purposes of this
subsection, "restaurant" has the same meaning as in RCW 66.04.010;
(ix) Home care aides certified under chapter 18.88B RCW and home
health aides that provide services under chapter 70.126 RCW that
primarily work in the home of the individual receiving care;
(x)(A) Corrections officers and correctional support employees
working at a correctional institution.
(B) For the purposes of this subsection (7)(f)(x):
(I) "Correctional institution" has the same meaning as in RCW 9.94.049.
(II) "Corrections officer" means any corrections agency employee
whose primary job function is to provide custody, safety, and
security of prisoners in jails and detention facilities.
(III) "Correctional support employee" means any employee who
provides food services or janitorial services in a correctional
institution;
(xi) Educational employees, including classroom teachers,
paraeducators, principals, librarians, school bus drivers, and other
educational support staff, of any school district, or a contractor of
a school district, that are required to be physically present at a
school or on the grounds of a school where classes are being taught
in person, in a transportation vehicle necessary for school
operations, or in the home of a student as part of their job duties,
if the employee has in-person interaction with students, a student's
family members, or other employees as part of their job duties;
(xii) Employees of institutions of higher education that are
required to be physically present on campus when classes are being
taught in person, if the employee has in-person interaction with
students or the general public as part of their job duties. For the
purposes of this subsection, "institution of higher education" has
the same meaning as in RCW 28B.10.016;

(xiii) Employees employed by a public library that remains open
to the general public during the public health emergency, if the
employee has in-person interaction with the general public as part of
their job duties or has in-person interaction with other employees.
For the purposes of this subsection, "public library" means a library
covered by chapter 27.12 RCW;

(xiv) Employees employed by the department of licensing who are
assigned to review, process, approve, and issue driver licenses to
the general public, if the employee has in-person interaction with
the general public as part of their job duties or has in-person
interaction with other employees.

(g) "Meat packing work" means work slaughtering animals and
processing and packaging meat products for sale and the rendering of
animal by-products.

(h) "Nursing home" means a nursing home licensed under chapter
18.51 RCW.

(i) "Public health emergency" means a declaration or order
concerning any infectious or contagious diseases, including a
pandemic and is issued as follows:

(i) The president of the United States has declared a national or
regional emergency that covers every county in the state of
Washington; or

(ii) The governor of Washington has declared a state of emergency
under RCW 43.06.010(12) in every county in the state.

(j) "School" has the same meaning as in RCW 28A.210.070.

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