
SUBSTITUTE SENATE BILL 5524

State of Washington

68th Legislature

2023 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Van De Wege, Keiser, Lovick, Cleveland, Conway, Hasegawa, and Holy)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to industrial insurance self-insured municipal
2 employers and third-party administrators; amending RCW 51.14.080;
3 adding a new section to chapter 51.14 RCW; and creating a new
4 section.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 51.14
7 RCW to read as follows:

8 (1) All self-insured municipal employers and their third-party
9 administrators have a duty of good faith and fair dealing to workers
10 relating to all aspects of this title.

11 (2) A municipal employer violates its duty to the worker if the
12 self-insured municipal employer or its third-party administrator
13 coerces a worker to accept less than the compensation due under this
14 title, or otherwise fails to act in good faith and deal fairly
15 regarding its obligations under this title.

16 (3) The department must adopt by rule additional applications of
17 the duty of good faith and fair dealing as well as criteria for
18 determining appropriate penalties for violations. In adopting a rule
19 under this subsection, the department must consider, among other
20 factors, recognized and approved claim processing practices within

1 the insurance industry, the department's own experience, and the
2 industrial insurance and insurance laws and rules of this state.

3 (4) The department must investigate each alleged violation of
4 this section upon the filing of a written complaint or upon its own
5 motion. After receipt of notice from the department, the self-insured
6 municipal employer or its third-party administrator may file a
7 written response within 30 calendar days. If the self-insured
8 municipal employer or third-party administrator fails to file a
9 timely response, the department shall issue an order based on
10 available information.

11 (5) A department order determining whether a violation has
12 occurred and conforming with RCW 51.52.050 must be issued within 30
13 calendar days of receipt of a complete complaint or its own motion.
14 An order finding that a violation of subsection (2) of this section
15 has occurred must also order the employer to pay a penalty of one to
16 52 times the average weekly wage at the time of the order, depending
17 upon the severity of the violation, which accrues for the benefit of
18 the worker.

19 **Sec. 2.** RCW 51.14.080 and 1986 c 57 s 7 are each amended to read
20 as follows:

21 (1) Certification of a self-insurer shall be withdrawn by the
22 director upon one or more of the following grounds:

23 ~~((1))~~ (a) The employer no longer meets the requirements of a
24 self-insurer; or

25 ~~((2))~~ (b) The self-insurer's deposit is insufficient; or

26 ~~((3))~~ (c) The self-insurer intentionally or repeatedly induces
27 employees to fail to report injuries, induces claimants to treat
28 injuries in the course of employment as off-the-job injuries,
29 persuades claimants to accept less than the compensation due, or
30 unreasonably makes it necessary for claimants to resort to
31 proceedings against the employer to obtain compensation; or

32 ~~((4))~~ (d) The self-insurer habitually fails to comply with
33 rules and regulations of the director regarding reports or other
34 requirements necessary to carry out the purposes of this title; or

35 ~~((5))~~ (e) The self-insurer habitually engages in a practice of
36 arbitrarily or unreasonably refusing employment to applicants for
37 employment or discharging employees because of nondisabling bodily
38 conditions; or

1 ~~((6))~~ (f) The self-insurer fails to pay an insolvency
2 assessment under the procedures established pursuant to RCW
3 51.14.077; or

4 (g) For a self-insured municipal employer, the self-insurer has
5 been found to have violated the self-insurer's duty of good faith and
6 fair dealing three times within a three-year period. For purposes of
7 determining whether there have been three violations within a three-
8 year period, the director must use the date of the department's
9 order. Any subsequent order of the department, board of industrial
10 insurance appeals, or courts affirming a violation occurred relates
11 back to the date of the department's order.

12 (2) The director may delay withdrawing the certification of the
13 self-insured municipal employer while the employer has an enforceable
14 contract with a licensed third-party administrator that may not be
15 legally terminated. However, the self-insured municipal employer may
16 not renew or extend the contract.

17 NEW SECTION. **Sec. 3.** This act applies to alleged violations
18 occurring on or after July 1, 2024.

--- END ---