

SB 5463 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/11/2025

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 51.14.080 and 2023 c 293 s 4 are each amended to
4 read as follows:

5 (1) Certification of a self-insurer shall be withdrawn by the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

7 (a) The employer no longer meets the requirements of a self-
8 insurer; or

9 (b) The self-insurer's deposit is insufficient; or

10 (c) The self-insurer intentionally or repeatedly induces
11 employees to fail to report injuries, induces claimants to treat
12 injuries in the course of employment as off-the-job injuries,
13 persuades claimants to accept less than the compensation due, or
14 unreasonably makes it necessary for claimants to resort to
15 proceedings against the employer to obtain compensation; or

16 (d) The self-insurer habitually fails to comply with rules and
17 regulations of the director regarding reports or other requirements
18 necessary to carry out the purposes of this title; or

19 (e) The self-insurer habitually engages in a practice of
20 arbitrarily or unreasonably refusing employment to applicants for
21 employment or discharging employees because of nondisabling bodily
22 conditions; or

23 (f) The self-insurer fails to pay an insolvency assessment under
24 the procedures established pursuant to RCW 51.14.077; or

25 (g) ~~((i) For a self-insured municipal employer, the self-insurer~~
26 ~~has been found to have violated the self-insurer's duty of good faith~~
27 ~~and fair dealing three times within a three-year period.~~

28 ~~(ii) For purposes of determining whether there have been three~~
29 ~~violations within a three-year period, the director must use the date~~
30 ~~of the department's order. Any subsequent order of the department,~~
31 ~~board of industrial insurance appeals, or courts affirming a~~

1 ~~violation occurred relates back to the date of the department's~~
2 ~~order.~~

3 ~~(iii) Errors or delays that are inadvertent or minor are not~~
4 ~~considered violations of good faith and fair dealing for purposes of~~
5 ~~this subsection (1)(g))~~ The self-insurer has failed to comply with a
6 corrective action under RCW 51.14.180(6) or decertification is
7 otherwise required or directed under RCW 51.14.180(6).

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

13 ~~((3) For the purposes of this section, "municipal" has the same~~
14 ~~meaning as defined in RCW 51.14.180.)~~

15 **Sec. 2.** RCW 51.14.180 and 2023 c 293 s 3 are each amended to
16 read as follows:

17 (1) All self-insured ~~((municipal employers and self-insured~~
18 ~~private sector firefighter))~~ employers and ~~((their))~~ third-party
19 administrators have a duty of good faith and fair dealing to workers
20 relating to all aspects of this title. The duty of good faith
21 requires fair dealing and equal consideration for the worker's
22 interests.

23 (2) ~~((A self-insured municipal employer or self-insured private~~
24 ~~sector firefighter))~~ An employer or ~~((their))~~ third-party
25 administrator violates its duty to the worker if it coerces a worker
26 to accept less than the compensation due under this title, or
27 otherwise fails to act in good faith and fair dealing regarding its
28 obligations under this title.

29 (3) The department shall adopt by rule additional applications of
30 the duty of good faith and fair dealing as well as criteria for
31 determining appropriate penalties for violations. In adopting a rule
32 under this subsection, the department shall consider, among other
33 factors, recognized and approved claim processing practices within
34 the insurance industry, the department's own experience, and the
35 industrial insurance and insurance laws and rules of this state.

36 (4) The department shall investigate each alleged violation of
37 this section upon the filing of a written complaint or upon its own
38 motion. After receiving notice and a request for a response from the
39 department, the ~~((municipal employer or private sector firefighter))~~

1 employer or (~~their~~) third-party administrator may file a written
2 response within 10 working days. If the (~~municipal employer or~~
3 ~~private sector firefighter~~) employer or (~~their~~) third-party
4 administrator fails to file a timely response, the department shall
5 issue an order based on available information.

6 (5) The department shall issue an order determining whether a
7 violation of this section has occurred, in conformance with RCW
8 51.52.050, within 30 calendar days of receipt of a complete complaint
9 or its own motion. An order finding that a violation has occurred
10 must also order the (~~municipal employer or private sector~~
11 ~~firefighter~~) employer to pay a penalty of one to 52 times the
12 average weekly wage at the time of the order, depending upon the
13 severity of the violation, which accrues for the benefit of the
14 worker.

15 (6) (~~The definitions in this subsection apply throughout this~~
16 ~~section unless the context clearly requires otherwise.~~

17 ~~(a) "Municipal" means any counties, cities, towns, port~~
18 ~~districts, water-sewer districts, school districts, metropolitan park~~
19 ~~districts, fire districts, public hospital districts, regional fire~~
20 ~~protection service authorities, education service districts, or such~~
21 ~~other units of local government.~~

22 ~~(b) "Private sector firefighter employer" means any private~~
23 ~~sector employer who employs over 50 firefighters, including~~
24 ~~supervisors, on a full-time, fully compensated basis as a firefighter~~
25 ~~of the employer's fire department, only with respect to their~~
26 ~~firefighters.)~~

27 (a) If the department determines that a self-insurer
28 has violated the duty of good faith and fair dealing in this section
29 two or more times within a three-year period, the director must
30 impose corrective action against the self-insurer in accordance with
31 the requirements in this subsection and RCW 51.14.095, which must
32 include a period in probationary status. The department must impose
33 appropriate restrictions and changes that are necessary for
34 preventing future violations, for which the department must audit
35 compliance for the term of the applicable corrective action. If the
36 self-insurer is found to have committed a subsequent violation while
37 subject to a corrective action, the department must withdraw the
38 self-insurer's certification under RCW 51.14.080. Following the
39 corrective action, the department may withdraw the self-insurer's
40 certification under RCW 51.14.080 based on an assessment of whether
the self-insurer has complied with the terms of the corrective action

1 or is likely to commit future violations of the duty of good faith
2 and fair dealing.

3 (b) If a self-insurer who has previously been subject to a
4 corrective action under (a) of this subsection subsequently commits
5 two or more violations within a two-year period, requiring a
6 corrective action under (a) of this subsection, and such action would
7 occur within 10 years of completing a prior corrective action and
8 probationary period under this subsection, the department must
9 withdraw the self-insurer's certification under RCW 51.14.080.

10 (c) For purposes of determining whether there have been three
11 violations within a three-year period, the director must use the date
12 of the department's order. Any subsequent order of the department,
13 board of industrial insurance appeals, or courts affirming a
14 violation occurred relates back to the date of the department's
15 order.

16 (7) Errors or delays that are inadvertent or minor are not
17 considered violations of good faith and fair dealing.

18 NEW SECTION. Sec. 3. This act applies to all claims regardless
19 of the date of injury.

20 NEW SECTION. Sec. 4. This act takes effect January 1, 2026."

21 Correct the title.

EFFECT: Removes from the underlying bill and current law the requirement for the Department of Labor and Industries (L&I) to decertify a self-insured employer if the self-insured employer violates the duty of good faith and fair dealing three times within a three-year period. Instead, requires L&I to impose a corrective action with a period of probationary status if it determines that the self-insurer has violated the duty of good faith and fair dealing two or more times in a three-year period. Requires L&I to impose appropriate restrictions and changes that are necessary for preventing future violations, for which L&I must audit compliance for the term of the applicable corrective action. Requires L&I to withdraw certification if the self-insurer is found to have committed a subsequent violation while subject to corrective action. Following the corrective action, allows L&I to withdraw the self-insurer's certification based on an assessment of whether the self-insurer has complied with the terms of the corrective action or is likely to commit future violations of the duty of good faith and fair dealing. Requires L&I to withdraw certification if the employer triggers the requirement for a subsequent corrective action within 10 years of completing the prior corrective action and probationary period. Shifts language regarding minor or inadvertent errors or delays not constituting violations from the provisions governing decertification

to the provisions establishing the duty of good faith and fair dealing.

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