CERTIFICATION OF ENROLLMENT

SENATE BILL 5463

Chapter 338, Laws of 2025

69th Legislature
2025 Regular Session

INDUSTRIAL INSURANCE—SELF-INSURERS AND THIRD-PARTY ADMINISTRATORS—DUTIES

EFFECTIVE DATE: January 1, 2026

Passed by the Senate April 22, 2025
Yeas 28 Nays 20

DENNY HECK

President of the Senate

Passed by the House April 11, 2025
Yeas 64 Nays 32

LAURIE JINKINS

Speaker of the House of Representatives

Approved May 17, 2025 3:15 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5463** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 19, 2025

Secretary of State
State of Washington

SENATE BILL 5463

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington 69th Legislature 2025 Regular Session

By Senators Alvarado, Conway, Saldaña, Salomon, Nobles, Valdez, Hasegawa, Stanford, Robinson, Shewmake, Trudeau, Bateman, Chapman, Harris, Liias, Cleveland, Holy, Lovelett, and C. Wilson

Read first time 01/23/25. Referred to Committee on Labor & Commerce.

AN ACT Relating to the duties of industrial insurance self-insured employers and third-party administrators; amending RCW 51.14.080 and 51.14.180; creating a new section; and providing an effective date.

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

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

(1) Certification of a self-insurer shall be withdrawn by the director upon one or more of the following grounds:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) ((~~A self-insured municipal employer or self-insured private sector firefighter~~)) An employer or ((~~their~~)) third-party administrator violates its duty to the worker if it coerces a worker to accept less than the compensation due under this title, or

otherwise fails to act in good faith and fair dealing regarding its obligations under this title.

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

(4) The department shall investigate each alleged violation of this section upon the filing of a written complaint or upon its own motion. After receiving notice and a request for a response from the department, the ((~~municipal employer or private sector firefighter~~)) employer or ((~~their~~)) third-party administrator may file a written response within 10 working days. If the ((~~municipal employer or private sector firefighter~~)) employer or ((~~their~~)) third-party administrator fails to file a timely response, the department shall issue an order based on available information.

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

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

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

~~(b) "Private sector firefighter employer" means any private sector employer who employs over 50 firefighters, including supervisors, on a full-time, fully compensated basis as a firefighter of the employer's fire department, only with respect to their firefighters.~~)) (a) If the department determines that a self-insurer has violated the duty of good faith and fair dealing in this section

two or more times within a three-year period, the director must impose corrective action against the self-insurer in accordance with the requirements in this subsection and RCW 51.14.095, which must include a period in probationary status. The department must impose appropriate restrictions and changes that are necessary for preventing future violations, for which the department must audit compliance for the term of the applicable corrective action. If the self-insurer is found to have committed a subsequent violation while subject to a corrective action, the department must withdraw the self-insurer's certification under RCW 51.14.080. Following the corrective action, the department may withdraw the self-insurer's certification under RCW 51.14.080 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.

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

(c) For purposes of determining the timing of violations for the requirements in this subsection, the director must use the date of the department's order. Any subsequent order of the department, board of industrial insurance appeals, or courts affirming a violation occurred relates back to the date of the department's order.

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

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

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

Passed by the Senate April 22, 2025.
Passed by the House April 11, 2025.
Approved by the Governor May 17, 2025.
Filed in Office of Secretary of State May 19, 2025.

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