

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2312

55th Legislature
1998 Regular Session

Passed by the House March 12, 1998
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 12, 1998
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2312** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2312

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Doumit, Pennington, Hatfield, Kenney, Clements, Carlson, Kessler, Anderson, Dunn and Tokuda)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to workers' compensation obligations of employers
2 not domiciled in Washington; amending RCW 51.12.120, 18.27.030, and
3 19.28.120; and creating new sections.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that a competitive
6 disadvantage exists in the construction industry because of a
7 disparity in workers' compensation coverage requirements among the
8 states. The intent of this act is (1) to provide an equal footing for
9 all contractors bidding on or engaging in construction work in this
10 state, (2) to ensure that all workers injured while in the course of
11 employment in this state receive the benefits to which they are
12 entitled, and (3) to not create disincentives for employers to hire
13 workers in this state.

14 **Sec. 2.** RCW 51.12.120 and 1995 c 199 s 1 are each amended to read
15 as follows:

16 (1) If a worker, while working outside the territorial limits of
17 this state, suffers an injury on account of which he or she, or his or
18 her beneficiaries, would have been entitled to compensation under this

1 title had (~~such~~) the injury occurred within this state, (~~such~~) the
2 worker, or his or her beneficiaries, shall be entitled to compensation
3 under this title(~~(:—PROVIDED, That)~~) if at the time of (~~such~~) the
4 injury:

5 (a) His or her employment is principally localized in this state;
6 or

7 (b) He or she is working under a contract of hire made in this
8 state for employment not principally localized in any state; or

9 (c) He or she is working under a contract of hire made in this
10 state for employment principally localized in another state whose
11 workers' compensation law is not applicable to his or her employer; or

12 (d) He or she is working under a contract of hire made in this
13 state for employment outside the United States and Canada.

14 (2) The payment or award of compensation or other recoveries,
15 including settlement proceeds, under the workers' compensation law of
16 another state, territory, province, or foreign nation to a worker or
17 his or her beneficiaries otherwise entitled on account of such injury
18 to compensation under this title shall not be a bar to a claim for
19 compensation under this title(~~(:—PROVIDED,)~~) if that claim under this
20 title is timely filed. If compensation is paid or awarded under this
21 title, the total amount of compensation or other recoveries, including
22 settlement proceeds, paid or awarded the worker or beneficiary under
23 such other workers' compensation law shall be credited against the
24 compensation due the worker or beneficiary under this title.

25 (3)(a) An employer not domiciled in this state who is employing
26 workers in this state in work for which the employer must be registered
27 under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or
28 prequalified under RCW 47.28.070, must secure the payment of
29 compensation under this title by:

30 (i) Insuring the employer's workers' compensation obligation under
31 this title with the department;

32 (ii) Being qualified as a self-insurer under this title; or

33 (iii) For employers domiciled in a state or province of Canada
34 subject to an agreement entered into under subsection (7) of this
35 section, as permitted by the agreement, filing with the department a
36 certificate of coverage issued by the agency that administers the
37 workers' compensation law in the employer's state or province of
38 domicile certifying that the employer has secured the payment of

1 compensation under the other state's or province's workers'
2 compensation law.

3 (b) The department shall adopt rules to implement this subsection.

4 (4) If a worker or beneficiary is entitled to compensation under
5 this title by reason of an injury sustained in this state while in the
6 employ of an employer who is domiciled in another state or province of
7 Canada and the employer:

8 (a) Is not subject to subsection (3) of this section and ((who))
9 has neither opened an account with the department nor qualified as a
10 self-insurer under this title, ((such-an)) the employer or his or her
11 insurance carrier shall file with the director a certificate issued by
12 the agency ((which)) that administers the workers' compensation law in
13 the state of the employer's domicile, certifying that ((such)) the
14 employer has secured the payment of compensation under the workers'
15 compensation law of ((such)) the other state and that with respect to
16 ((said)) the injury ((such)) the worker or beneficiary is entitled to
17 the benefits provided under ((such)) the other state's law. ((In such
18 event:

19 (a)) (b) Has filed a certificate under subsection (3)(a)(iii) of
20 this section or (a) of this subsection (4):

21 (i) The filing of ((such)) the certificate ((shall)) constitutes
22 appointment by the employer or his or her insurance carrier of the
23 director as its agent for acceptance of the service of process in any
24 proceeding brought by any claimant to enforce rights under this title;

25 ((b)) (ii) The director shall send to such employer or his or her
26 insurance carrier, by registered or certified mail to the address shown
27 on such certificate, a true copy of any notice of claim or other
28 process served on the director by the claimant in any proceeding
29 brought to enforce rights under this title;

30 ((e)(i)) (iii) If ((such)) the employer is a self-insurer under
31 the workers' compensation law of ((such)) the other state or province
32 of Canada, ((such)) the employer shall, upon submission of evidence or
33 security, satisfactory to the director, of his or her ability to meet
34 his or her liability to ((such)) the claimant under this title, be
35 deemed to be a qualified self-insurer under this title; and

36 ((ii)) (iv) If ((such)) the employer's liability under the
37 workers' compensation law of ((such)) the other state or province of
38 Canada is insured((, such)):

1 (A) The employer's carrier, as to such claimant only, shall be
2 deemed to be subject to this title(~~(:—PROVIDED, That)~~). However,
3 unless ~~((its))~~ the insurer's contract with ~~((said))~~ the employer
4 requires ~~((it))~~ the insurer to pay an amount equivalent to the
5 compensation benefits provided by this title, the insurer's liability
6 for compensation shall not exceed ~~((its))~~ the insurer's liability under
7 the workers' compensation law of ~~((such))~~ the other state or province;
8 and

9 ~~((d))~~ (B) If the total amount for which ~~((such))~~ the employer's
10 insurer is liable under ~~((e)(ii) above)~~ (b)(iv)(A) of this subsection
11 is less than the total of the compensation to which ~~((such))~~ the
12 claimant is entitled under this title, the director may require the
13 employer to file security satisfactory to the director to secure the
14 payment of compensation under this title(~~(+)~~).

15 ~~((e))~~ (c) If ~~((such employer))~~ subject to subsection (3) of this
16 section, has not complied with subsection (3) of this section or, if
17 not subject to subsection (3) of this section, has neither qualified as
18 a self-insurer nor secured insurance coverage under the workers'
19 compensation law of another state or province of Canada, ((such)) the
20 claimant shall be paid compensation by the department(~~(+)~~) and

21 ~~((f) Any such))~~ the employer shall have the same rights and
22 obligations, and is subject to the same penalties, as other employers
23 subject to this title ((and where he or she has not provided coverage
24 or sufficient coverage to secure the compensation provided by this
25 title to such claimant, the director may impose a penalty payable to
26 the department of a sum not to exceed fifty percent of the cost to the
27 department of any deficiency between the compensation provided by this
28 title and that afforded such claimant by such employer or his or her
29 insurance carrier if any)).

30 ~~((4))~~ (5) As used in this section:

31 (a) A person's employment is principally localized in this or
32 another state when: (i) His or her employer has a place of business in
33 this or ((such)) the other state and he or she regularly works at or
34 from ((such)) the place of business(~~(-))~~; or (ii) if ~~((clause (i)~~
35 ~~foregoing))~~ (a)(i) of this subsection is not applicable, he or she is
36 domiciled in and spends a substantial part of his or her working time
37 in the service of his or her employer in this or ~~((such))~~ the other
38 state;

1 (b) "Workers' compensation law" includes "occupational disease law"
2 for the purposes of this section.

3 ~~((+5))~~ (6) A worker whose duties require him or her to travel
4 regularly in the service of his or her employer in this and one or more
5 other states may agree in writing with his or her employer that his or
6 her employment is principally localized in this or another state, and,
7 unless ~~((such))~~ the other state refuses jurisdiction, ~~((such))~~ the
8 agreement shall govern as to any injury occurring after the effective
9 date of the agreement.

10 ~~((+6))~~ (7) The director ~~((shall be))~~ is authorized to enter into
11 agreements with the appropriate agencies of other states and provinces
12 of Canada ~~((which))~~ that administer their workers' compensation law
13 with respect to conflicts of jurisdiction and the assumption of
14 jurisdiction in cases where the contract of employment arises in one
15 state or province and the injury occurs in another~~((, and))~~. If the
16 other state's or province's law requires Washington employers to secure
17 the payment of compensation under the other state's or province's
18 workers' compensation laws for work that in Washington requires the
19 employer to be registered under chapter 18.27 RCW or licensed under
20 chapter 19.28 RCW, or prequalified under RCW 47.28.070, then employers
21 domiciled in that state or province must purchase compensation covering
22 their workers engaged in that work in this state under this state's
23 industrial insurance law. When ~~((any such))~~ an agreement under this
24 subsection has been executed and ~~((promulgated))~~ adopted as a
25 ~~((regulation))~~ rule of the department under chapter 34.05 RCW, it
26 ~~((shall))~~ binds all employers and workers subject to this title and the
27 jurisdiction of this title ~~((shall be))~~ is governed by this
28 ~~((regulation))~~ rule.

29 **Sec. 3.** RCW 18.27.030 and 1997 c 314 s 4 are each amended to read
30 as follows:

31 (1) An applicant for registration as a contractor shall submit an
32 application under oath upon a form to be prescribed by the director and
33 which shall include the following information pertaining to the
34 applicant:

35 (a) Employer social security number.

36 (b) ~~((As applicable:—(i) The industrial insurance account number~~
37 ~~covering employees domiciled in Washington; and (ii) evidence of~~
38 ~~workers' compensation coverage in the applicant's state of domicile for~~

1 the applicant's employees working in Washington who are not domiciled
2 in Washington)) Evidence of workers' compensation coverage for the
3 applicant's employees working in Washington, as follows:

4 (i) The applicant's industrial insurance account number issued by
5 the department;

6 (ii) The applicant's self-insurer number issued by the department;
7 or

8 (iii) For applicants domiciled in a state or province of Canada
9 subject to an agreement entered into under RCW 51.12.120(7), as
10 permitted by the agreement, filing a certificate of coverage issued by
11 the agency that administers the workers' compensation law in the
12 applicant's state or province of domicile certifying that the applicant
13 has secured the payment of compensation under the other state's or
14 province's workers' compensation law.

15 (c) Employment security department number.

16 (d) State excise tax registration number.

17 (e) Unified business identifier (UBI) account number may be
18 substituted for the information required by (b)((7)) of this subsection
19 if the applicant will not employ employees in Washington, and by
20 (c)((7)) and (d) of this subsection.

21 (f) Type of contracting activity, whether a general or a specialty
22 contractor and if the latter, the type of specialty.

23 (g) The name and address of each partner if the applicant ((be)) is
24 a firm or partnership, or the name and address of the owner if the
25 applicant ((be)) is an individual proprietorship, or the name and
26 address of the corporate officers and statutory agent, if any, if the
27 applicant ((be)) is a corporation. The information contained in such
28 application ((shall be)) is a matter of public record and open to
29 public inspection.

30 (2) The department may verify the workers' compensation coverage
31 information provided by the applicant under subsection (1)(b) of this
32 section, including but not limited to information regarding the
33 coverage of an individual employee of the applicant. If coverage is
34 provided under the laws of another state, the department may notify the
35 other state that the applicant is employing employees in Washington.

36 (3) The department shall deny an application for registration if
37 the applicant has been previously registered as a sole proprietor,
38 partnership, or corporation and the applicant has an unsatisfied final

1 judgment against him or her in an action based on this chapter that was
2 incurred during a previous registration under this chapter.

3 **Sec. 4.** RCW 19.28.120 and 1992 c 217 s 2 are each amended to read
4 as follows:

5 (1) It is unlawful for any person, firm, partnership, corporation,
6 or other entity to engage in, conduct, or carry on the business of
7 installing or maintaining wires or equipment to convey electric
8 current, or installing or maintaining equipment to be operated by
9 electric current as it pertains to the electrical industry, without
10 having an unrevoked, unsuspended, and unexpired electrical contractor
11 license, issued by the department in accordance with this chapter. All
12 electrical contractor licenses expire twenty-four calendar months
13 following the day of their issue. The department may issue an
14 electrical contractors license for a period of less than twenty-four
15 months only for the purpose of equalizing the number of electrical
16 contractor licenses (~~(which))~~ that expire each month. Application for
17 an electrical contractor license shall be made in writing to the
18 department, accompanied by the required fee. The application shall
19 state:

20 (a) The name and address of the applicant; in case of firms or
21 partnerships, the names of the individuals composing the firm or
22 partnership; in case of corporations, the names of the managing
23 officials thereof;

24 (b) The location of the place of business of the applicant and the
25 name under which the business is conducted;

26 (c) Employer social security number;

27 (d) (~~(As applicable: (i) The industrial insurance account number
28 covering employees domiciled in Washington; and (ii) evidence of
29 workers' compensation coverage in the applicant's state of domicile for
30 the applicant's employees working in Washington who are not domiciled
31 in Washington))~~ Evidence of workers' compensation coverage for the
32 applicant's employees working in Washington, as follows:

33 (i) The applicant's industrial insurance account number issued by
34 the department;

35 (ii) The applicant's self-insurer number issued by the department;
36 or

37 (iii) For applicants domiciled in a state or province of Canada
38 subject to an agreement entered into under RCW 51.12.120(7), as

1 permitted by the agreement, filing a certificate of coverage issued by
2 the agency that administers the workers' compensation law in the
3 applicant's state or province of domicile certifying that the applicant
4 has secured the payment of compensation under the other state's or
5 province's workers' compensation law;

6 (e) Employment security department number;

7 (f) State excise tax registration number;

8 (g) Unified business identifier (UBI) account number may be
9 substituted for the information required by (d)((7)) of this subsection
10 if the applicant will not employ employees in Washington, and by
11 (e)((7)) and (f) of this subsection; and

12 (h) Whether a general or specialty electrical contractor license is
13 sought and, if the latter, the type of specialty. Electrical
14 contractor specialties include, but are not limited to: Residential,
15 domestic appliances, pump and irrigation, limited energy system, signs,
16 nonresidential maintenance, and a combination specialty. A general
17 electrical contractor license shall grant to the holder the right to
18 engage in, conduct, or carry on the business of installing or
19 maintaining wires or equipment to carry electric current, and
20 installing or maintaining equipment, or installing or maintaining
21 material to fasten or insulate such wires or equipment to be operated
22 by electric current, in the state of Washington. A specialty
23 electrical contractor license shall grant to the holder a limited right
24 to engage in, conduct, or carry on the business of installing or
25 maintaining wires or equipment to carry electrical current, and
26 installing or maintaining equipment; or installing or maintaining
27 material to fasten or insulate such wires or equipment to be operated
28 by electric current in the state of Washington as expressly allowed by
29 the license.

30 (2) The department may verify the workers' compensation coverage
31 information provided by the applicant under subsection (1)(d) of this
32 section, including but not limited to information regarding the
33 coverage of an individual employee of the applicant. If coverage is
34 provided under the laws of another state, the department may notify the
35 other state that the applicant is employing employees in Washington.

36 (3) The application for a contractor license shall be accompanied
37 by a bond in the sum of four thousand dollars with the state of
38 Washington named as obligee in the bond, with good and sufficient
39 surety, to be approved by the department. The bond shall at all times

1 be kept in full force and effect, and any cancellation or revocation
2 thereof, or withdrawal of the surety therefrom, suspends the license
3 issued to the principal until a new bond has been filed and approved as
4 provided in this section. Upon approval of a bond, the department
5 shall on the next business day deposit the fee accompanying the
6 application in the electrical license fund and shall file the bond in
7 the office. The department shall upon request furnish to any person,
8 firm, partnership, corporation, or other entity a certified copy of the
9 bond upon the payment of a fee that the department shall set by rule.
10 The fee shall cover but not exceed the cost of furnishing the certified
11 copy. The bond shall be conditioned that in any installation or
12 maintenance of wires or equipment to convey electrical current, and
13 equipment to be operated by electrical current, the principal will
14 comply with the provisions of this chapter and with any electrical
15 ordinance, building code, or regulation of a city or town adopted
16 pursuant to RCW 19.28.010(~~(+2)~~) (3) that is in effect at the time of
17 entering into a contract. The bond shall be conditioned further that
18 the principal will pay for all labor, including employee benefits, and
19 material furnished or used upon the work, taxes and contributions to
20 the state of Washington, and all damages that may be sustained by any
21 person, firm, partnership, corporation, or other entity due to a
22 failure of the principal to make the installation or maintenance in
23 accordance with this chapter or any applicable ordinance, building
24 code, or regulation of a city or town adopted pursuant to RCW
25 19.28.010(~~(+2)~~) (3). In lieu of the surety bond required by this
26 section the license applicant may file with the department a cash
27 deposit or other negotiable security acceptable to the department. If
28 the license applicant has filed a cash deposit, the department shall
29 deposit the funds in a special trust savings account in a commercial
30 bank, mutual savings bank, or savings and loan association and shall
31 pay annually to the depositor the interest derived from the account.

32 (4) The department shall issue general or specialty electrical
33 contractor licenses to applicants meeting all of the requirements of
34 this chapter. The provisions of this chapter relating to the licensing
35 of any person, firm, partnership, corporation, or other entity
36 including the requirement of a bond with the state of Washington named
37 as obligee therein and the collection of a fee therefor, are exclusive,
38 and no political subdivision of the state of Washington may require or
39 issue any licenses or bonds or charge any fee for the same or a similar

1 purpose. No person, firm, partnership, corporation, or other entity
2 holding more than one specialty contractor license under this chapter
3 may be required to pay an annual fee for more than one such license or
4 to post more than one four thousand dollar bond, equivalent cash
5 deposit, or other negotiable security.

6 (5) To obtain a general or specialty electrical contractor license
7 the applicant must designate an individual who currently possesses an
8 administrator's certificate as a general electrical contractor
9 administrator or as a specialty electrical contractor administrator in
10 the specialty for which application has been made. Administrator
11 certificate specialties include but are not limited to: Residential,
12 domestic, appliance, pump and irrigation, limited energy system, signs,
13 nonresidential maintenance, and combination specialty. To obtain an
14 administrator's certificate an individual must pass an examination as
15 set forth in RCW 19.28.123 unless the applicant was a licensed
16 electrical contractor at any time during 1974. Applicants who were
17 electrical contractors licensed by the state of Washington at any time
18 during 1974 are entitled to receive a general electrical contractor
19 administrator's certificate without examination if the applicants apply
20 prior to January 1, 1984. The board of electrical examiners shall
21 certify to the department the names of all persons who are entitled to
22 either a general or specialty electrical contractor administrator's
23 certificate.

24 NEW SECTION. **Sec. 5.** The workers' compensation advisory committee
25 established under RCW 51.04.110 shall appoint a subcommittee to review
26 section 2 of this act and related issues, as determined by the
27 committee, and report its findings and recommendations to the
28 committee. The committee shall make a final report to the department
29 of labor and industries by December 15, 1998. The department shall
30 report on the study to the appropriate committees of the legislature by
31 January 15, 1999.

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