

SENATE BILL NO. 38—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 27, 1999

(ON BEHALF OF LEGISLATIVE COMMITTEE ON WORKERS' COMPENSATION)

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning industrial insurance. (BDR 53-379)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; requiring certain records of an employer who is insured by a private carrier to be open to inspection by that private carrier; expanding the types of organizations or associations of employers to which private carriers may provide industrial insurance; changing the period within which an insurer must provide notice that an employer has changed insurers or allowed his industrial insurance to lapse; revising the provisions concerning employee leasing companies; requiring an insurer to notify certain claimants of circumstances under which a claim for workers' compensation may be closed automatically; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 616A.465 is hereby amended to read as follows:
2 616A.465 1. Except as otherwise provided in this section, the
3 division shall:
4 (a) Regulate insurers pursuant to chapters 616A to 617, inclusive, of
5 NRS; ~~and~~
6 (b) Investigate insurers regarding compliance with statutes and the
7 division's regulations ~~and~~;
8 (c) *Determine whether an employee leasing company is entitled to a*
9 *certificate of registration pursuant to NRS 616B.673; and*
10 (d) *Regulate employee leasing companies pursuant to the provisions*
11 *of NRS 616B.670 to 616B.697, inclusive.*

1 2. The commissioner is responsible for reviewing rates, investigating
2 the solvency of insurers, authorizing private carriers pursuant to chapter
3 680A of NRS and certifying:

4 (a) Self-insured employers pursuant to NRS 616B.300 to 616B.330,
5 inclusive, and 616B.336;

6 (b) Associations of self-insured public or private employers pursuant to
7 NRS 616B.350 to 616B.446, inclusive; and

8 (c) Third-party administrators pursuant to chapter 683A of NRS.

9 3. The department of administration is responsible for contested claims
10 relating to industrial insurance pursuant to NRS 616C.310 to 616C.385,
11 inclusive. The administrator is responsible for administrative appeals
12 pursuant to NRS 616B.215.

13 4. The Nevada attorney for injured workers is responsible for legal
14 representation of claimants pursuant to NRS 616A.435 to 616A.460,
15 inclusive, and 616D.120.

16 5. The division is responsible for the investigation of complaints. If a
17 complaint is filed with the division, the administrator shall cause to be
18 conducted an investigation which includes a review of relevant records and
19 interviews of affected persons. If the administrator determines that a
20 violation may have occurred, the administrator shall proceed in accordance
21 with the provisions of NRS 616D.120 and 616D.130.

22 ***6. As used in this section, "employee leasing company" has the***
23 ***meaning ascribed to it in NRS 616B.670.***

24 **Sec. 2.** NRS 616A.485 is hereby amended to read as follows:

25 616A.485 1. The books, records and payrolls of an employer insured
26 by the system must be open to inspection by the administrator, the system or
27 its auditor or agent or by auditors of the department of taxation to
28 determine:

29 (a) The accuracy of the payroll;

30 (b) The number of persons employed; and

31 (c) Any other information necessary for the administration of chapters
32 616A to 617, inclusive, of NRS.

33 2. The books, records and payroll of an employer who is self-insured, a
34 member of an association of self-insured public or private employers or
35 insured by a private carrier must be open to inspection by the administrator
36 or his auditor or agent in the manner prescribed in subsection 1.

37 ***3. The books, records and payroll of an employer who is insured by a***
38 ***private carrier must be open to inspection by that private carrier or its***
39 ***auditor or agent in the manner prescribed in subsection 1.***

40 **Sec. 3.** NRS 616B.026 is hereby amended to read as follows:

41 616B.026 1. An insurer, other than a self-insured employer or an
42 association of self-insured public or private employers, shall provide to each
43 employer to whom the insurer provides industrial insurance , ***whether or not***

1 *the employer is a member of a group that is provided with industrial*
2 *insurance pursuant to NRS 616B.036*, a certificate of insurance which
3 indicates that the employer has obtained a policy of industrial insurance.

4 2. A certificate of insurance provided by an insurer pursuant to
5 subsection 1 must include, without limitation:

- 6 (a) The name of the insurer;
- 7 (b) The name of the insured;
- 8 (c) The number of the policy; and
- 9 (d) The period for which the policy is effective.

10 **Sec. 4.** NRS 616B.036 is hereby amended to read as follows:

11 616B.036 1. The system and private carriers may provide industrial
12 insurance for an organization or association of employers as a group if:

13 (a) The members of the ~~{group-or}~~ organization *or association* are
14 engaged in a common trade or business; and

15 (b) The formation and operation of a program of industrial insurance for
16 the organization or association will substantially assist in the handling of
17 claims and the prevention of accidents for the employers as a group.

18 2. *Notwithstanding the provisions of subsection 1, the system and*
19 *private carriers may provide industrial insurance for an organization or*
20 *association of employers as a group whose members are not engaged in a*
21 *common trade or business if:*

22 (a) *The organization or association of employers is formed and*
23 *maintained for purposes other than obtaining industrial insurance; and*

24 (b) *The contract or other agreement pursuant to which the system or*
25 *the private carrier will provide industrial insurance for the organization*
26 *or association provides that:*

27 (1) *A separate policy will be issued to each member of the*
28 *organization or association; and*

29 (2) *Other than the payment of premiums by the organization or*
30 *association, the organization or association and each of its members are*
31 *not liable for the cost of the administration of claims or the*
32 *compensation payable pursuant to the provisions of chapters 616A to*
33 *616D, inclusive, or chapter 617 of NRS.*

34 3. The commissioner must approve each ~~{group-or}~~ organization *or*
35 *association* before a policy of industrial insurance may be issued to it ~~{~~
36 ~~—3.—~~ *as a group pursuant to subsection 1 or 2.*

37 4. The commissioner shall adopt regulations for the qualification of
38 ~~{groups for industrial insurance.}~~ *organizations or associations of*
39 *employers described in subsections 1 and 2.*

40 **Sec. 5.** NRS 616B.460 is hereby amended to read as follows:

41 616B.460 1. An employer may elect to purchase industrial insurance
42 from a private carrier for his employees pursuant to chapters 616A to 617,
43 inclusive, of

NRS.

2. An employer may elect to purchase insurance from an insurer other than his present insurer if the employer has:

(a) Given at least 10 days' notice to the administrator of the change of insurer; and

(b) Furnished evidence satisfactory to the administrator that the payment of compensation has otherwise been secured.

3. Each private carrier and the system shall notify the administrator if an employer has changed his insurer or has allowed his insurance to lapse, within ~~{24 hours or by the end of the next working day}~~ 15 days after the insurer has notice of the change or lapse.

Sec. 6. NRS 616B.670 is hereby amended to read as follows:

616B.670 As used in NRS 616B.670 to 616B.697, inclusive, unless the context otherwise requires:

1. "Applicant" means a person seeking a certificate of ~~{insurance}~~ **registration** pursuant to NRS 616B.670 to 616B.697, inclusive, to operate an employee leasing company.

2. "Client company" means a company which leases employees, for a fee, from an employee leasing company pursuant to a written or oral agreement.

3. "Employee leasing company" means a company which, pursuant to a written or oral agreement:

(a) Places any of the regular, full-time employees of a client company on its payroll and, for a fee, leases them to the client company on a regular basis without any limitation on the duration of their employment; or

(b) Leases to a client company:

(1) Five or more part-time or full-time employees; or

(2) Ten percent or more of the total number of employees within a classification of risk established by the ~~{system.}~~ **commissioner.**

Sec. 7. NRS 616B.673 is hereby amended to read as follows:

616B.673 1. A person shall not operate an employee leasing company in this state unless he has complied with the provisions of NRS 616B.670 to 616B.697, inclusive. The ~~{manager}~~ **administrator** shall issue a certificate of ~~{insurance}~~ **registration** to each applicant who complies with the provisions of NRS 616B.670 to 616B.697, inclusive.

2. Any person who violates the provisions of subsection 1 is guilty of a misdemeanor.

3. Each certificate of ~~{insurance}~~ **registration** issued by the ~~{manager}~~ **administrator** pursuant to NRS 616B.670 to 616B.697, inclusive, expires 1 year after it is issued unless renewed before that date.

Sec. 8. NRS 616B.676 is hereby amended to read as follows:

616B.676 An applicant for the issuance or renewal of a certificate of ~~{insurance}~~ **registration** must submit to the ~~{manager}~~ **administrator** a written application upon a form provided by the ~~{manager.}~~ **administrator.**

1 **Sec. 9.** NRS 616B.679 is hereby amended to read as follows:

2 616B.679 1. Each application must include:

3 (a) The applicant's name and title of his position with the employee
4 leasing company.

5 (b) The applicant's age, place of birth and social security number.

6 (c) The applicant's address.

7 (d) The business address of the employee leasing company.

8 (e) The business address of the resident agent of the employee leasing
9 company, if the applicant is not the resident agent.

10 (f) If the applicant is a:

11 (1) Partnership, the name of the partnership and the name, address,
12 age, social security number and title of each partner.

13 (2) Corporation, the name of the corporation and the name, address,
14 age, social security number and title of each officer of the corporation.

15 (g) Proof of:

16 (1) The payment of any taxes required by chapter 364A of NRS.

17 (2) The payment of any premiums for industrial insurance required by
18 chapters 616A to 617, inclusive, of NRS.

19 (3) The payment of contributions or payments in lieu of contributions
20 required by chapter 612 of NRS.

21 (4) Insurance coverage for any benefit plan from an insurer
22 authorized pursuant to Title 57 of NRS that is offered by the employee
23 leasing company to its employees.

24 ~~[(5) Membership in the National Staff Leasing Association, or its~~
25 ~~successor organization.]~~

26 (h) Any other information the ~~{manager}~~ **administrator** requires.

27 2. Each application must be notarized and signed under penalty of
28 perjury:

29 (a) If the applicant is a sole proprietorship, by the sole proprietor.

30 (b) If the applicant is a partnership, by each partner.

31 (c) If the applicant is a corporation, by each officer of the corporation.

32 3. An applicant shall submit to the ~~{manager}~~ **administrator** any
33 change in the information required by this section within 30 days after the
34 change occurs. The ~~{manager}~~ **administrator** may revoke the certificate of
35 ~~{insurance}~~ **registration** of an employee leasing company which fails to
36 comply with **the** provisions of ~~[this subsection. If the manager revokes the~~
37 ~~certificate of insurance and cancels the]~~ **NRS 616B.670 to 616B.697,**
38 **inclusive.**

39 4. **If an insurer cancels an** employee leasing company's policy, the
40 ~~{manager}~~ **insurer** shall immediately notify the administrator ~~[-who shall~~
41 ~~proceed in accordance with the provisions of NRS 616D.110.]~~ **in writing.**
42 **The notice must comply with the provisions of NRS 687B.310 to**

1 **687B.355, inclusive, and must be served personally on or sent by first-**
2 **class mail or electronic transmission to the administrator.**

3 **Sec. 10.** NRS 616B.694 is hereby amended to read as follows:

4 616B.694 The ~~manager, in cooperation with the administrator of the~~
5 ~~employment security division of the department of employment, training~~
6 ~~and rehabilitation, shall, and the commissioner of insurance may,~~
7 **administrator may** adopt regulations to carry out the provisions of NRS
8 616B.670 to 616B.697, inclusive.

9 **Sec. 11.** NRS 616B.697 is hereby amended to read as follows:

10 616B.697 An action for damages caused by the failure of an employee
11 leasing company to comply with the provisions of NRS 616B.670 to
12 616B.697, inclusive, may be brought against any person who is required to
13 sign the application for a certificate of ~~insurance~~ **registration** for the
14 employee leasing company.

15 **Sec. 12.** NRS 616C.235 is hereby amended to read as follows:

16 616C.235 1. Except as otherwise provided in subsection 2:

17 (a) When the insurer determines that a claim should be closed before all
18 benefits to which the claimant may be entitled have been paid, the insurer
19 shall send a written notice of its intention to close the claim to the claimant
20 by first-class mail addressed to the last known address of the claimant. The
21 notice must include a statement that if the claimant does not agree with the
22 determination, he has a right to request a resolution of the dispute pursuant
23 to NRS 616C.305 and 616C.315 to 616C.385, inclusive. A suitable form for
24 requesting a resolution of the dispute must be enclosed with the notice. The
25 closure of a claim **pursuant to this subsection** is not effective unless notice
26 is given as required by this subsection.

27 (b) If the insurer does not receive a request for the resolution of the
28 dispute, it may close the claim.

29 (c) Notwithstanding the provisions of NRS 233B.125, if a hearing is
30 conducted to resolve the dispute, the decision of the hearing officer may be
31 served by first-class mail.

32 2. If **, during the first 12 months after a claim is opened,** the medical
33 benefits required to be paid for a claim are less than \$500, the claim closes
34 automatically. ~~[if the claimant does not receive medical treatment for the~~
35 ~~injury for at least 12 months.]~~ The claimant may not appeal the closing of
36 such a claim. **The insurer shall send to each claimant who receives less**
37 **than \$500 in medical benefits within 6 months after the claim is opened a**
38 **written notice that explains the circumstances under which a claim may**
39 **be closed automatically pursuant to this subsection. The written notice**
40 **does not create any right to appeal the contents of that notice. The written**
41 **notice must be:**

42 (a) **Sent by first-class mail addressed to the last known address of the**
43 **claimant;**

and

1 *(b) A document that is separate from any other document or form that*
2 *is used by the insurer.*

3 *The closure of a claim pursuant to this subsection is not effective unless*
4 *notice is given as required by this subsection.*

5 **Sec. 13.** NRS 616D.250 is hereby amended to read as follows:

6 616D.250 1. Any employer insured by the system who refuses to
7 submit his books, records and payroll for inspection, as provided by NRS
8 616A.485, to a representative of the system or the administrator, or to an
9 auditor from the department of taxation ~~H~~ presenting written authority for
10 the inspection, is subject to a penalty of \$1,000 for each offense, to be
11 collected by a civil action in the name of the system or the administrator.

12 2. A self-insured employer, a member of an association of self-insured
13 public or private employers or an employer insured by a private carrier who
14 refuses to submit his books, records and payroll to the administrator *or the*
15 *private carrier* for inspection as provided by NRS 616A.485 ~~H~~ is subject to
16 a penalty of \$1,000 for each offense, to be collected by a civil action in the
17 name of the administrator ~~H~~ *or the private carrier, as applicable.*

18 3. The person who gives such refusal is guilty of a misdemeanor.

19 **Sec. 14.** 1. This section and sections 6 to 12, inclusive, of this act
20 become effective on July 1, 1999.

21 2. Sections 1 to 5, inclusive, and 13 of this act become effective at
22 12:01 a.m. on July 1, 1999.