

ASSEMBLY BILL NO. 47—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 26, 2001

(ON BEHALF OF LEGISLATIVE COMMITTEE ON
WORKERS' COMPENSATION (NRS 218.5375))

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning policies of industrial insurance.
(BDR 53-769)

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

~

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

AN ACT relating to industrial insurance; requiring an employer to ensure that a copy of its policy of industrial insurance is available for inspection by certain state officials; requiring self-insured employers and associations of self-insured public or private employers to ensure that their certificates of qualification are available for inspection by certain state officials; revising the provisions governing notification by employers and private carriers of cancellations, issuances and other actions concerning policies of industrial insurance; 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.495 is hereby amended to read as follows:
2 616A.495 1. Each employer shall ensure that ~~§~~
3 ~~—(a) A certificate of insurance provided pursuant to NRS 616B.026;~~
4 ~~—(b) A certificate) a copy of his:~~
5 (a) *Policy of industrial insurance, including the declaration page, if*
6 *the employer is insured by a private carrier;*
7 (b) *Certificate* issued by the commissioner pursuant to NRS 616B.312
8 ~~§, if the employer is self-insured;~~ or
9 (c) ~~[A certificate issued to an association of self-insured public or~~
10 ~~private employers] Certificate issued~~ by the commissioner pursuant to
11 NRS 616B.359 and *of* a certificate or letter issued by ~~[such an] the~~
12 association *of self-insured public or private employers* verifying that the
13 employer is a member in good standing of the association, ~~is posted in a~~

~~conspicuous location]~~ if the employer is a member of an association of self-insured public or private employers, is available at all times for inspection by the administrator or his auditor or agent or an investigator of the attorney general at each of the employer's places of business, including, without limitation, each location at which the employer has directed one or more employees to perform work.

2. An employer insured by a private carrier, self-insured employer or employer who is a member of an association of self-insured public or private employers who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 2. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An employer who cancels a policy of industrial insurance issued to him by a private carrier shall notify the administrator in writing within 20 days after the cancellation, specifying the date on which the cancellation became effective, unless the employer's subsequent insurer is a private carrier who has already notified the administrator pursuant to subsection 2 that it has issued a new policy to that employer. The notice must be served personally or sent by first-class mail or electronic transmission to the administrator. If the employer has secured insurance with another insurer that could cause double coverage, the date on which cancellation of the previous policy became effective must be the effective date of the new insurance.

2. A private carrier shall notify the administrator in writing within 15 days after the private carrier:

(a) Issues a policy of industrial insurance.

(b) Renews a policy of industrial insurance.

(c) Reinstates a policy of industrial insurance that had been temporarily canceled.

(d) Cancels or does not renew a policy of industrial insurance.

3. If the administrator believes that a private carrier has inaccurately reported the information required pursuant to subsection 2 and notifies the private carrier of the alleged inaccuracy, the private carrier shall within 30 calendar days after receiving the notification:

(a) Investigate the alleged inaccuracy; and

(b) Submit to the administrator accurate information or information proving that the previously submitted information was accurate.

4. During the period of investigation by the private carrier, the administrator may not impose any administrative fines, issue a notice of correction or take any other corrective action against the private carrier. If the private carrier is able to prove that the information originally submitted to the administrator or, if applicable, his designated agent, was accurate, the administrator may not impose any administrative fines, issue a notice of correction or take any other corrective action against the private carrier. As used in this subsection, "designated agent" means an agent who is authorized by the administrator to receive, compile and forward to the administrator the information required pursuant to subsection 2.

Sec. 3. NRS 616B.033 is hereby amended to read as follows:

616B.033 1. Every policy of insurance issued pursuant to chapters 616A to 617, inclusive, of NRS must contain a provision for the requirements of subsection ~~[5]~~ 4 and a provision that insolvency or bankruptcy of the employer or his estate, or discharge therein, or any default of the employer does not relieve the insurer from liability for compensation resulting from an injury otherwise covered under the policy issued by the insurer.

2. No statement in an employer's application for a policy of industrial insurance voids the policy as between the insurer and employer unless the statement is false and would have materially affected the acceptance of the risk if known by the insurer, but in no case does the invalidation of a policy as between the insurer and employer affect the insurer's obligation to provide compensation to claimants arising before the cancellation of the policy. If the insurer is required pursuant to this subsection to provide compensation under an invalid policy, the insurer is subrogated to the claimant's rights against the employer.

~~3. If an insurer or employer intends to cancel or renew a policy of insurance issued by the insurer pursuant to chapters 616A to 617, inclusive, of NRS, the insurer or employer must give notice to that effect in writing to the administrator and to the other party fixing the date on which it is proposed that the cancellation or renewal becomes effective. The notices must comply with the provisions of NRS 687B.310 to 687B.355, inclusive, and must be served personally on or sent by first class mail or electronic transmission to the administrator and the other party. If the employer has secured insurance with another insurer which would cause double coverage, the cancellation must be made effective as of the effective date of the other insurance.~~

~~—4.]~~ As between any claimant and the insurer, no defense based on any act or omission of the insured employer, if different from the insurer, may be raised by the insurer.

~~[5]~~ 4. For the purposes of chapters 616A to 617, inclusive, of NRS, as between the employee and the insurer:

(a) Except as otherwise provided in NRS 616C.065, notice or knowledge of the injury to or by the employer is notice or knowledge to or by the insurer;

(b) Jurisdiction over the employer is jurisdiction over the insurer; and

(c) The insurer is bound by and subject to any judgments, findings of fact, conclusions of law, awards, decrees, orders or decisions rendered against the employer in the same manner and to the same extent as the employer.

Sec. 4. NRS 616B.224 is hereby amended to read as follows:

616B.224 1. Every private or public employer who is not a self-insured employer or a member of an association of self-insured public or private employers shall, at intervals and on or before dates established by his insurer, furnish the insurer with:

(a) A true and accurate payroll showing:

(1) The total amount paid to employees for services performed;

(2) The amount of tips reported to him by every employee pursuant to 26 U.S.C. § 6053(a) whose tips in cash totaled \$20 or more; and

(3) A segregation of employment in accordance with the requirements of the commissioner; and

(b) Any premium due pursuant to the terms of the policy of industrial insurance.

The payroll reports and any premium may be furnished to the insurer on different dates, as established by the insurer.

2. The failure of any employer to comply with the provisions of this section operates as a rejection of chapters 616A to 616D, inclusive, and chapter 617 of NRS. The insurer shall *, within the period specified in subsection 2 of section 2 of this act,* notify the administrator of each such rejection ~~[within the period specified in NRS 616B.460.]~~ *by notifying the administrator of its cancellation or decision not to renew the policy of that employer.*

3. The insurer shall notify any employer or his representative by first-class mail of any failure on his part to comply with the provisions of this section. The notice or its omission does not modify or waive the requirements or effective rejection of chapters 616A to 616D, inclusive, and chapter 617 of NRS as otherwise provided in those chapters.

4. To the extent permitted by federal law, the insurer shall vigorously pursue the collection of premiums that are due under the provisions of chapters 616A to 616D, inclusive, and chapter 617 of NRS even if an employer's debts have been discharged in a bankruptcy proceeding.

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

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

2. An employer ~~[may]~~ *who cancels a policy of industrial insurance to* 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 shall notify the administrator if an employer has changed his insurer or has allowed his insurance to lapse, within 15 days after the insurer has notice of the change or lapse.]~~ *shall comply with the reporting requirements of section 2 of this act.*

Sec. 6. NRS 616B.026 is hereby repealed.

Sec. 7. The amendatory provisions of this act do not apply to offenses committed before July 1, 2001.

1 **Sec. 8.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTION

616B.026 Certificate of industrial insurance: Issuance by certain insurers; contents.

1. An insurer, other than a self-insured employer or an association of self-insured public or private employers, shall provide to each employer to whom the insurer provides industrial insurance, whether or not the employer is a member of a group that is provided with industrial insurance pursuant to NRS 616B.036, a certificate of insurance which indicates that the employer has obtained a policy of industrial insurance.

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

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

~