

ASSEMBLY BILL NO. 48—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 53-768)

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

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

AN ACT relating to industrial insurance; providing a definition of “policy year” for the purpose of industrial insurance; specifying the circumstances under which a policy of industrial insurance may exclude coverage for certain employees covered by a consolidated insurance program; allowing certain employers to report information concerning tips received by their employees by a computerized program or process; authorizing a private carrier to require a sole proprietor seeking coverage to submit to a physical examination; eliminating the requirement that unpaid premiums bear interest at the rate of 1 percent monthly; 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.** Chapter 616A of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 *“Policy year” means the 12-month period during which a policy of*
4 *industrial insurance is effective.*
5 **Sec. 2.** NRS 616A.025 is hereby amended to read as follows:
6 616A.025 As used in chapters 616A to 616D, inclusive, of NRS,
7 unless the context otherwise requires, the words and terms defined in NRS
8 616A.030 to 616A.360, inclusive, *and section 1 of this act* have the
9 meanings ascribed to them in those sections.
10 **Sec. 3.** NRS 616B.031 is hereby amended to read as follows:
11 616B.031 ~~{Aa}~~
12 1. *Except as otherwise provided in subsection 2, an* insurer shall not
13 issue a policy of industrial insurance to an employer that does not cover



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1 each employee of that employer who satisfies the definition of employee
2 set forth in NRS 616A.105 to 616A.225, inclusive.

3 *2. If the employer is a contractor or subcontractor who is engaged in*
4 *the construction of a project that is covered by a consolidated insurance*
5 *program established pursuant to NRS 616B.710 to 616B.737, inclusive,*
6 *an insurer may issue a policy of industrial insurance to that employer*
7 *which does not cover an employee who:*

8 *(a) Is assigned to participate in the construction of the project that is*
9 *covered by the consolidated insurance program; and*

10 *(b) Works exclusively at the site of the construction project that is*
11 *covered by the consolidated insurance program.*

12 **Sec. 4.** NRS 616B.222 is hereby amended to read as follows:

13 616B.222 To determine the total amount paid to employees for
14 services performed, the maximum amount paid to any one employee
15 during ~~the year in which~~ a policy ~~of industrial insurance is effective~~
16 ~~year~~ shall be deemed to be \$36,000.

17 **Sec. 5.** NRS 616B.227 is hereby amended to read as follows:

18 616B.227 1. ~~At~~ *Except as otherwise provided in subsection 2, an*
19 employer shall:

20 (a) Make a copy of each report that an employee files with the employer
21 pursuant to 26 U.S.C. § 6053(a) to report the amount of his tips to the
22 United States Internal Revenue Service; *and*

23 (b) Submit the copy to his private carrier upon request and retain
24 another copy for his records or, if the employer is self-insured or a member
25 of an association of self-insured public or private employers, retain the
26 copy for his records. ~~;~~ *and*

27 ~~—(c) If he~~

28 *2. An employer that maintains his records concerning payroll by a*
29 *computerized program or process that can produce a report on all*
30 *employees which indicates:*

31 *(a) The amount of tips reported by each employee pursuant to 26*
32 *U.S.C. § 6053(a); or*

33 *(b) The amount of tips allocated to each employee pursuant to a*
34 *formula applied by the employer, whether by agreement of the employees*
35 *or by imposition of the employer,*
36 *may satisfy the requirements of subsection 1 by submitting a copy of the*
37 *report to his private carrier and maintaining another copy of the report*
38 *for his records.*

39 *3. An employer that* is not self-insured or a member of an association
40 of self-insured public or private employers ~~;~~ *shall* pay the private carrier
41 the premiums for the reported tips at the same rate as he pays on regular
42 wages.

43 ~~2. The division shall adopt regulations specifying the form of the~~
44 ~~declaration required pursuant to subsection 1.~~

45 ~~—3. 4.~~ The private carrier, self-insured employer or association *of self-*
46 *insured public or private employers* shall calculate compensation for an
47 employee on the basis of wages paid by the employer plus the amount of
48 tips reported by the employee pursuant to 26 U.S.C. § ~~6053~~ *6053(a).*



1 Reports made after the date of injury may not be used for the calculation of
2 compensation.

3 ~~4-1~~ 5. An employer shall notify his employees of the requirement to
4 report income from tips to calculate his federal income tax and to include
5 the income in the computation of benefits pursuant to chapters 616A to
6 616D, inclusive, and chapter 617 of NRS.

7 ~~5-1~~ 6. The administrator shall adopt such regulations as are necessary
8 to carry out the provisions of this section.

9 **Sec. 6.** NRS 616B.624 is hereby amended to read as follows:

10 616B.624 1. If a quasi-public or private corporation or a limited-
11 liability company is required to be insured pursuant to chapters 616A to
12 616D, inclusive, of NRS, an officer of the corporation or a manager of the
13 company who:

14 (a) Receives pay for services performed as an officer, manager or
15 employee of the corporation or company shall be deemed for the purposes
16 of those chapters to receive a minimum pay of \$6,000 per *policy* year ~~{the~~
17 ~~policy of industrial insurance for the employer is effective}~~ and a
18 maximum pay of \$36,000 per *policy* year . ~~{the policy of industrial~~
19 ~~insurance is effective.}~~

20 (b) Does not receive pay for services performed as an officer, manager
21 or employee of the corporation or company shall be deemed for the
22 purposes of those chapters to receive a minimum pay of \$500 per month or
23 \$6,000 per *policy* year . ~~{the policy of industrial insurance is effective.}~~

24 2. An officer or manager who does not receive pay for services
25 performed as an officer, manager or employee of the corporation or
26 company may elect to reject coverage by filing written notice thereof with
27 the corporation or company and the insurer. The rejection is effective upon
28 receipt of the notice by the insurer.

29 3. An officer or manager who has rejected coverage may rescind that
30 rejection by filing written notice thereof with the corporation or company
31 and the insurer. The rescission is effective upon receipt of the notice by the
32 insurer. If an officer or manager who has rejected coverage receives pay
33 for services performed as an officer, manager or employee of the
34 corporation or company, the officer or manager shall be deemed to have
35 rescinded that rejection.

36 4. A nonprofit corporation whose officers do not receive pay for
37 services performed as officers or employees of the corporation may elect to
38 reject coverage for its current officers and all future officers who do not
39 receive such pay by filing written notice thereof with the corporation and
40 the insurer. The rejection is effective upon receipt of the notice by the
41 insurer.

42 5. A nonprofit corporation which has rejected coverage for its officers
43 who do not receive pay for services performed as officers or employees of
44 the corporation may rescind that rejection by filing written notice thereof
45 with the corporation and the insurer. The rescission is effective upon
46 receipt of the notice by the insurer. If an officer of a nonprofit corporation
47 which has rejected coverage receives pay for services performed as an
48 officer or employee of the corporation, the corporation shall be deemed to
49 have rescinded that rejection.



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1 **Sec. 7.** NRS 616B.659 is hereby amended to read as follows:

2 616B.659 1. A sole proprietor may elect to be included within the
3 terms, conditions and provisions of chapters 616A to 616D, inclusive, of
4 NRS to secure for himself compensation equivalent to that to which an
5 employee is entitled for any accidental injury sustained by the sole
6 proprietor which arises out of and in the course of his self-employment by
7 filing a written notice of election with the administrator and a private
8 carrier.

9 2. A *private carrier may require a* sole proprietor who elects to accept
10 the terms, conditions and provisions of chapters 616A to 616D, inclusive,
11 of NRS ~~shall~~ *to* submit to a physical examination before his coverage
12 commences. ~~The~~ *If a* private carrier *requires such a physical*
13 *examination, the private carrier* shall prescribe the scope of the
14 examination and shall consider it for rating purposes. The cost of the
15 physical examination must be paid by the sole proprietor.

16 3. A sole proprietor who elects to submit to the provisions of chapters
17 616A to 616D, inclusive, of NRS shall pay to the private carrier premiums
18 in such manner and amounts as may be prescribed by the regulations of the
19 commissioner.

20 4. If a sole proprietor fails to pay all premiums required by the
21 regulations of the commissioner, the failure operates as a rejection of
22 chapters 616A to 616D, inclusive, of NRS.

23 5. A sole proprietor who elects to be included pursuant to the
24 provisions of chapters 616A to 616D, inclusive, of NRS remains subject to
25 all terms, conditions and provisions of those chapters and all regulations of
26 the commissioner until he files written notice with the administrator and
27 the private carrier that he withdraws his election.

28 6. For the purposes of chapters 616A to 616D, inclusive, of NRS, a
29 sole proprietor shall be deemed to be receiving a wage of \$300 per month
30 unless, at least 90 days before any injury for which he requests coverage,
31 he files written notice with the administrator and the private carrier that he
32 elects to pay an additional amount of premiums for additional coverage. If
33 the private carrier receives the additional premiums it requires for such
34 additional coverage, the sole proprietor shall be deemed to be receiving a
35 wage of \$1,800 per month.

36 **Sec. 8.** NRS 616B.730 is hereby amended to read as follows:

37 616B.730 1. A consolidated insurance program must not provide
38 industrial insurance coverage, a comprehensive program of safety or for
39 the administration of claims for industrial insurance for an employee of a
40 contractor or subcontractor who is engaged in the construction of the
41 project that is covered by the consolidated insurance program at any time
42 that such an employee does not work at the site of the construction project.

43 2. A contractor or subcontractor who is engaged in the construction of
44 a project that is covered by a consolidated insurance program shall
45 maintain separate industrial insurance coverage for its employees who:

46 (a) Are not assigned to participate in the construction of the project; or

47 (b) Are assigned to participate in the construction of the project but who
48 do not work *exclusively* at the site of the project.



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1 3. The owner or principal contractor of a construction project shall
2 reimburse a contractor or subcontractor who bids successfully on the
3 construction project for the cost of providing separate industrial insurance
4 coverage for an employee if:

5 (a) The contractor or subcontractor set the amount of his bid in a
6 reasonable, good faith belief that the employee would work *exclusively* at
7 the site of the construction project and would therefore be *fully* covered by
8 the consolidated insurance program; and

9 (b) Because of changed circumstances not reasonably foreseeable at the
10 time the bid was submitted, the employee worked in whole or in part at a
11 location other than the site of the construction project, requiring the
12 contractor or subcontractor to obtain separate industrial insurance coverage
13 for that employee.

14 **Sec. 9.** NRS 617.207 is hereby amended to read as follows:

15 617.207 1. If a quasi-public or private corporation or limited-liability
16 company is required to be insured pursuant to this chapter, an officer of the
17 corporation or a manager of the company who:

18 (a) Receives pay for service performed shall be deemed for the purposes
19 of this chapter to receive a minimum pay of \$6,000 per *policy* year ~~{the~~
20 ~~policy of industrial insurance for the employer is effective}~~ and a
21 maximum pay of \$36,000 per *policy* year . ~~{the policy of industrial~~
22 ~~insurance if effective.}~~

23 (b) Does not receive pay for services performed shall be deemed for the
24 purposes of this chapter to receive a minimum pay of \$500 per month or
25 \$6,000 per *policy* year . ~~{the policy of industrial insurance is effective.}~~

26 2. An officer or manager who does not receive pay for services
27 performed may elect to reject coverage by filing written notice thereof with
28 the corporation or company and the insurer. The rejection is effective upon
29 receipt of the notice by the insurer.

30 3. An officer or manager who has rejected coverage may rescind that
31 rejection by filing written notice thereof with the corporation or company
32 and the insurer. The rescission is effective upon receipt of the notice by the
33 insurer.

34 **Sec. 10.** NRS 617.225 is hereby amended to read as follows:

35 617.225 1. A sole proprietor may elect to be included within the
36 terms, conditions and provisions of this chapter to secure for himself
37 compensation equivalent to that to which an employee is entitled for any
38 occupational disease contracted by the sole proprietor which arises out of
39 and in the course of his self-employment by filing a written notice of
40 election with the administrator and a private carrier.

41 2. A private carrier may require a sole proprietor who elects to accept
42 the terms, conditions and provisions of this chapter ~~{shall}~~ to submit to a
43 physical examination by a physician selected by the private carrier before
44 the commencement of coverage and on a yearly basis thereafter. ~~{The}~~ *If a*
45 private carrier *requires such a physical examination, the private carrier*
46 shall prescribe the scope of the examination and shall consider it for rating
47 purposes. The cost of the physical examination must be paid by the sole
48 proprietor.



1 3. A sole proprietor who elects to submit to the provisions of this
2 chapter shall pay to the private carrier premiums in such manner and
3 amounts as may be prescribed by the regulations of the commissioner.

4 4. If a sole proprietor fails to pay all premiums required by the
5 regulations of the commissioner, the failure operates as a rejection of this
6 chapter.

7 5. A sole proprietor who elects to be included under the provisions of
8 this chapter remains subject to all terms, conditions and provisions of this
9 chapter and all regulations of the commissioner until he files a written
10 notice with the private carrier and the administrator that he withdraws his
11 election.

12 6. For purposes of this chapter, a sole proprietor shall be deemed to be
13 an employee receiving a wage of \$300 per month.

14 **Sec. 11.** NRS 616B.236 is hereby repealed.

15 **Sec. 12.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTION

616B.236 Accrual of interest on unpaid premiums. Except as otherwise provided in NRS 616D.200, when any premium of an employer remains unpaid on the date on which it becomes due, as prescribed by NRS 616B.224, it bears interest at the rate of 1 percent for each month or portion of a month thereafter until payment of the premium, plus accrued interest, is received by the insurer.

