

SENATE BILL NO. 209—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND
INDUSTRY—ATTORNEY FOR INJURED WORKERS)

FEBRUARY 20, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing workers' compensation benefits. (BDR 53-616)

FISCAL NOTE: Effect on Local Government: No.
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 workers' compensation; revising certain provisions governing eligibility for compensation for stress; allowing an employee who is injured or who contracts an occupational disease outside this state to receive compensation from the uninsured employers' claim fund; removing the requirement that certain claims which are pending appeal and which have not been stayed must be paid in installments; revising certain provisions governing eligibility for reopening a claim; revising the provision governing the reduction of compensation for a permanent total disability when compensation in a lump sum for a permanent partial disability has already been paid; eliminating the requirement that a delay in payment of compensation must be unreasonable for administrative penalties to apply; 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 616C.180 is hereby amended to read as follows:
2 616C.180 1. Except as otherwise provided in this section, an injury
3 or disease sustained by an employee that is caused by stress is compensable
4 pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter
5 617 of NRS if it arose out of and in the course of his employment.
6 2. Any ailment or disorder caused by any gradual mental stimulus, and
7 any death or disability ensuing therefrom, shall be deemed not to be an
8 injury or disease arising out of and in the course of employment.
9 3. An injury or disease caused by stress shall be deemed to arise out of
10 and in the course of employment only if the employee proves by clear and
11 convincing medical or psychiatric evidence that:
12 (a) He has a mental injury caused by extreme stress in time of danger;



1 (b) ~~The primary~~ *A substantial contributing* cause of the injury was an
2 event that arose out of and during the course of his employment; and

3 (c) The stress was not caused by his layoff, the termination of his
4 employment or any disciplinary action taken against him.

5 4. The provisions of this section do not apply to a person who is
6 claiming compensation pursuant to NRS 617.457.

7 **Sec. 2.** NRS 616C.220 is hereby amended to read as follows:

8 616C.220 1. The division shall designate one:

9 (a) Third-party administrator who has a valid certificate issued by the
10 commissioner pursuant to NRS 683A.085; or

11 (b) Insurer, other than a self-insured employer or association of self-
12 insured public or private employers,

13 to administer claims against the uninsured employers' claim fund. The
14 designation must be made pursuant to reasonable competitive bidding
15 procedures established by the administrator.

16 2. An employee may receive compensation from the uninsured
17 employers' claim fund if:

18 (a) He was hired in this state or he is regularly employed in this state;

19 (b) He suffers an accident or injury ~~in this state~~ which arises out of
20 and in the course of his employment;

21 (c) He files a claim for compensation with the division; and

22 (d) He makes an irrevocable assignment to the division of a right to be
23 subrogated to the rights of the injured employee pursuant to
24 NRS 616C.215.

25 3. If the division receives a claim pursuant to subsection 2, the division
26 shall immediately notify the employer of the claim.

27 4. For the purposes of this section, the employer has the burden of
28 proving that he provided mandatory industrial insurance coverage for the
29 employee or that he was not required to maintain industrial insurance for
30 the employee.

31 5. Any employer who has failed to provide mandatory coverage
32 required by the provisions of chapters 616A to 616D, inclusive, of NRS is
33 liable for all payments made on his behalf, including any benefits,
34 administrative costs or attorney's fees paid from the uninsured employers'
35 claim fund or incurred by the division.

36 6. The division:

37 (a) May recover from the employer the payments made by the division
38 that are described in subsection 5 and any accrued interest by bringing a
39 civil action in district court.

40 (b) In any civil action brought against the employer, is not required to
41 prove that negligent conduct by the employer was the cause of the
42 employee's injury.

43 (c) May enter into a contract with any person to assist in the collection
44 of any liability of an uninsured employer.

45 (d) In lieu of a civil action, may enter into an agreement or settlement
46 regarding the collection of any liability of an uninsured employer.

47 7. The division shall:

48 (a) Determine whether the employer was insured within 30 days after
49 receiving notice of the claim from the employee.



* S B 2 0 9 *

1 (b) Assign the claim to the third-party administrator or insurer
2 designated pursuant to subsection 1 for administration and payment of
3 compensation.

4 Upon determining whether the claim is accepted or denied, the designated
5 third-party administrator or insurer shall notify the injured employee, the
6 named employer and the division of its determination.

7 8. Upon demonstration of the:

8 (a) Costs incurred by the designated third-party administrator or insurer
9 to administer the claim or pay compensation to the injured employee; or

10 (b) Amount that the designated third-party administrator or insurer will
11 pay for administrative expenses or compensation to the injured employee
12 and that such amounts are justified by the circumstances of the claim,
13 the division shall authorize payment from the uninsured employers' claim
14 fund.

15 9. Any party aggrieved by a determination regarding the
16 administration of an assigned claim or a determination made by the
17 division or by the designated third-party administrator or insurer regarding
18 any claim made pursuant to this section may appeal that determination
19 within 60 days after the determination is rendered to the hearings division
20 of the department of administration in the manner provided by NRS
21 616C.305 and 616C.315 to 616C.385, inclusive.

22 10. All insurers shall bear a proportionate amount of a claim made
23 pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a
24 proportionate amount of any collection made pursuant to this section as an
25 offset against future liabilities.

26 11. An uninsured employer is liable for the interest on any amount
27 paid on his claims from the uninsured employers' claim fund. The interest
28 must be calculated at a rate equal to the prime rate at the largest bank in
29 Nevada, as ascertained by the commissioner of financial institutions, on
30 January 1 or July 1, as the case may be, immediately preceding the date of
31 the claim, plus 3 percent, compounded monthly, from the date the claim is
32 paid from the fund until payment is received by the division from the
33 employer.

34 12. Attorney's fees recoverable by the division pursuant to this section
35 must be:

36 (a) If a private attorney is retained by the division, paid at the usual and
37 customary rate for that attorney.

38 (b) If the attorney is an employee of the division, paid at the rate
39 established by regulations adopted by the division.

40 Any money collected must be deposited to the uninsured employers' claim
41 fund.

42 13. In addition to any other liabilities provided for in this section, the
43 administrator may impose an administrative fine of not more than \$10,000
44 against an employer if the employer fails to provide mandatory coverage
45 required by the provisions of chapters 616A to 616D, inclusive, of NRS.

46 **Sec. 3.** NRS 616C.380 is hereby amended to read as follows:

47 616C.380 1. If a hearing officer, appeals officer or district court
48 renders a decision on a claim for compensation and the insurer or employer
49 appeals that decision, but is unable to obtain a stay of the decision †



* S B 2 0 9 *

1 ~~—(a) Payment~~ , *payment* of that portion of an award for a permanent
2 partial disability which is contested must be made in installment payments
3 until the claim reaches final resolution.

4 ~~—(b) Payment of the award must be made in monthly installments of 66~~
5 ~~2/3 percent of the average wage of the claimant until the claim reaches~~
6 ~~final resolution if the claim is for more than 3 months of past benefits for a~~
7 ~~temporary total disability or rehabilitation, or for a payment in lump sum~~
8 ~~related to past benefits for rehabilitation, such as costs for purchasing a~~
9 ~~business or equipment.~~

10 2. If the final resolution of the claim is in favor of the claimant, the
11 remaining amount of compensation *for a permanent partial disability* to
12 which the claimant is entitled may be paid in a lump sum if the claimant is
13 otherwise eligible for such a payment pursuant to NRS 616C.495 and any
14 regulations adopted pursuant thereto. If the final resolution of the claim is
15 in favor of the insurer or employer, any amount paid to the claimant in
16 excess of the uncontested amount must be deducted from any future
17 benefits related to that claim, other than medical benefits, to which the
18 claimant is entitled. The deductions must be made in a reasonable manner
19 so as not to create an undue hardship to the claimant.

20 **Sec. 4.** NRS 616C.390 is hereby amended to read as follows:

21 616C.390 1. If an application to reopen a claim to increase or
22 rearrange compensation is made in writing more than 1 year after the date
23 on which the claim was closed, the insurer shall reopen the claim if:

24 (a) A change of circumstances warrants an increase or rearrangement of
25 compensation during the life of the claimant;

26 (b) ~~{The primary}~~ *A substantial contributing* cause of the change of
27 circumstances is the injury *or disease* for which the claim was originally
28 made; and

29 (c) The application is accompanied by the certificate of a physician or a
30 chiropractor showing a change of circumstances which would warrant an
31 increase or rearrangement of compensation.

32 2. After a claim has been closed, the insurer, upon receiving an
33 application and for good cause shown, may authorize the reopening of the
34 claim for medical investigation only. The application must be accompanied
35 by a written request for treatment from the physician or chiropractor
36 treating the claimant, certifying that the treatment is indicated by a change
37 in circumstances and is related to the industrial injury sustained *or*
38 *occupational disease contracted* by the claimant.

39 3. If a claimant applies for a claim to be reopened pursuant to
40 subsection 1 or 2 and a final determination denying the reopening is issued,
41 the claimant ~~{shall}~~ *may* not reapply to reopen the claim until at least 1 year
42 after the date on which the final determination is issued.

43 4. Except as otherwise provided in subsection 5, if an application to
44 reopen a claim is made in writing within 1 year after the date on which the
45 claim was closed, the insurer shall reopen the claim only if:

46 (a) The application is supported by medical evidence demonstrating an
47 objective change in the medical condition of the claimant; and



* S B 2 0 9 *

1 (b) There is clear and convincing evidence that ~~the primary~~ *a*
2 *substantial contributing* cause of the change of circumstances is the injury
3 *or disease* for which the claim was originally made.

4 5. An application to reopen a claim must be made in writing within 1
5 year after the date on which the claim was closed if:

6 (a) The claimant was not off work as a result of the injury ~~or~~ *or disease;*
7 and

8 (b) The claimant did not receive benefits for a permanent partial
9 disability.

10 If an application to reopen a claim to increase or rearrange compensation is
11 made pursuant to this subsection, the insurer shall reopen the claim if the
12 requirements set forth in paragraphs (a), (b) and (c) of subsection 1 are
13 met.

14 6. If an employee's claim is reopened pursuant to this section, he is not
15 entitled to vocational rehabilitation services or benefits for a temporary
16 total disability if, before his claim was reopened, he:

17 (a) Retired; or

18 (b) Otherwise voluntarily removed himself from the work force,
19 for reasons unrelated to the injury *or disease* for which the claim was
20 originally made.

21 7. One year after the date on which the claim was closed, an insurer
22 may dispose of the file of a claim authorized to be reopened pursuant to
23 subsection 5, unless an application to reopen the claim has been filed
24 pursuant to that subsection.

25 8. An increase or rearrangement of compensation is not effective
26 before an application for reopening a claim is made unless good cause is
27 shown. The insurer shall, upon good cause shown, allow the cost of
28 emergency treatment the necessity for which has been certified by a
29 physician or a chiropractor.

30 9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and
31 is not appealed or is unsuccessfully appealed pursuant to the provisions of
32 NRS 616C.305 and 616C.315 to 616C.385, inclusive, may not be reopened
33 pursuant to this section.

34 10. The provisions of this section apply to any claim for which an
35 application to reopen the claim or to increase or rearrange compensation is
36 made pursuant to this section, regardless of the date of the injury or
37 accident *or the date of disablement* to the claimant. If a claim is reopened
38 pursuant to this section, the amount of any compensation or benefits
39 provided must be determined in accordance with the provisions of NRS
40 616C.425 ~~or~~ *or 617.445, as appropriate.*

41 **Sec. 5.** NRS 616C.440 is hereby amended to read as follows:

42 616C.440 1. Except as otherwise provided in this section and NRS
43 616C.175, every employee in the employ of an employer, within the
44 provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by
45 accident arising out of and in the course of employment, or his dependents
46 as defined in chapters 616A to 616D, inclusive, of NRS, is entitled to
47 receive the following compensation for permanent total disability:

48 (a) In cases of total disability adjudged to be permanent, compensation
49 per month of 66 2/3 percent of the average monthly wage.



* S B 2 0 9 *

1 (b) If there is a previous disability, as the loss of one eye, one hand, one
2 foot or any other previous permanent disability, the percentage of disability
3 for a subsequent injury must be determined by computing the percentage of
4 the entire disability and deducting therefrom the percentage of the previous
5 disability as it existed at the time of the subsequent injury, but such a
6 deduction for a previous award for permanent partial disability must ~~be~~ :

7 (1) *Be* made in a reasonable manner ; and ~~it must not~~

8 (2) *Not* be more than *the sum of* the total amount which was paid *in*
9 *lump sum* for the previous award for permanent partial disability ~~it~~ *minus*
10 *any amount that was previously recouped by the insurer through a*
11 *deduction from an award of compensation for another type of disability.*

12 (c) If the character of the injury is such as to render the employee so
13 physically helpless as to require the service of a constant attendant, an
14 additional allowance may be made so long as such requirements continue,
15 but the allowance may not be made while the employee is receiving
16 benefits for care in a hospital or facility for intermediate care pursuant to
17 the provisions of NRS 616C.265.

18 2. Except as otherwise provided in NRS 616B.028 and 616B.029, an
19 injured employee or his dependents are not entitled to accrue or be paid
20 any benefits for a permanent total disability during the time the injured
21 employee is incarcerated. The injured employee or his dependents are
22 entitled to receive such benefits when the injured employee is released
23 from incarceration if he is certified as permanently totally disabled by a
24 physician or chiropractor.

25 3. An employee is entitled to receive compensation for a permanent
26 total disability only so long as the permanent total disability continues to
27 exist. The insurer has the burden of proving that the permanent total
28 disability no longer exists.

29 4. If an employee who has received compensation in a lump sum for a
30 permanent partial disability pursuant to NRS 616C.495 is subsequently
31 determined to be permanently and totally disabled, the compensation for
32 the permanent total disability must be reduced as follows:

33 (a) If the employee has not received a minimum lump sum, the insurer
34 of the employee's employer shall deduct from the compensation for the
35 permanent total disability an amount equal to the monthly installment rate
36 for awards for permanent partial disability until the insurer has deducted an
37 amount that equals *the sum of* the amount it has already paid out as a lump
38 sum ~~it~~ *minus any amount that it has previously recouped through a*
39 *deduction from an award of compensation for another type of disability;*
40 or

41 (b) If the employee received a minimum lump sum, the insurer of the
42 employee's employer shall deduct from the compensation for the
43 permanent total disability an amount of not more than 10 percent of the
44 rate of compensation for a permanent total disability until *the insurer has*
45 *deducted an amount equal to the sum of the amount it has already paid*
46 *out as a lump sum* ~~it is recovered~~ *minus any amount that it has*
47 *previously recouped through a deduction from an award of*
48 *compensation for another type of disability.*



1 The provisions of this subsection are retroactive for all claims for
2 compensation for a permanent total disability remaining open on January 1,
3 2000.

4 **Sec. 6.** NRS 616D.120 is hereby amended to read as follows:

5 616D.120 1. Except as otherwise provided in this section, if the
6 administrator determines that an insurer, organization for managed care,
7 health care provider, third-party administrator or employer has:

8 (a) Through fraud, coercion, duress or undue influence:

9 (1) Induced a claimant to fail to report an accidental injury or
10 occupational disease;

11 (2) Persuaded a claimant to settle for an amount which is less than
12 reasonable;

13 (3) Persuaded a claimant to settle for an amount which is less than
14 reasonable while a hearing or an appeal is pending; or

15 (4) Persuaded a claimant to accept less than the compensation found
16 to be due him by a hearing officer, appeals officer, court of competent
17 jurisdiction, written settlement agreement, written stipulation or the
18 division when carrying out its duties pursuant to chapters 616A to 617,
19 inclusive, of NRS;

20 (b) Refused to pay or ~~unreasonably~~ delayed payment to a claimant of
21 compensation found to be due him by a hearing officer, appeals officer,
22 court of competent jurisdiction, written settlement agreement, written
23 stipulation or the division when carrying out its duties pursuant to chapters
24 616A to 616D, inclusive, or chapter 617 of NRS, if the refusal or delay
25 occurs:

26 (1) Later than 10 days after the date of the settlement agreement or
27 stipulation;

28 (2) Later than 30 days after the date of the decision of a court,
29 hearing officer, appeals officer or division, unless a stay has been granted;
30 or

31 (3) Later than 10 days after a stay of the decision of a court, hearing
32 officer, appeals officer or division has been lifted;

33 (c) Refused to process a claim for compensation pursuant to chapters
34 616A to 616D, inclusive, or chapter 617 of NRS;

35 (d) Made it necessary for a claimant to initiate proceedings pursuant to
36 chapters 616A to 616D, inclusive, or chapter 617 of NRS for compensation
37 found to be due him by a hearing officer, appeals officer, court of
38 competent jurisdiction, written settlement agreement, written stipulation or
39 the division when carrying out its duties pursuant to chapters 616A to
40 616D, inclusive, or chapter 617 of NRS;

41 (e) Failed to comply with the division's regulations covering the
42 payment of an assessment relating to the funding of costs of administration
43 of chapters 616A to 617, inclusive, of NRS;

44 (f) Failed to provide or unreasonably delayed payment to an injured
45 employee or reimbursement to an insurer pursuant to NRS 616C.165; or

46 (g) Intentionally failed to comply with any provision of, or regulation
47 adopted pursuant to, this chapter or chapter 616A, 616B, 616C or 617 of
48 NRS,



1 the administrator shall impose an administrative fine of \$1,000 for each
2 initial violation, or a fine of \$10,000 for a second or subsequent violation.

3 2. Except as otherwise provided in chapters 616A to 616D, inclusive,
4 or chapter 617 of NRS, if the administrator determines that an insurer,
5 organization for managed care, health care provider, third-party
6 administrator or employer has failed to comply with any provision of this
7 chapter or chapter 616A, 616B, 616C or 617 of NRS, or any regulation
8 adopted pursuant thereto, the administrator may take any of the following
9 actions:

10 (a) Issue a notice of correction for:

11 (1) A minor violation, as defined by regulations adopted by the
12 division; or

13 (2) A violation involving the payment of compensation in an amount
14 which is greater than that required by any provision of this chapter or
15 chapter 616A, 616B, 616C or 617 of NRS, or any regulation adopted
16 pursuant thereto.

17 The notice of correction must set forth with particularity the violation
18 committed and the manner in which the violation may be corrected. The
19 provisions of this section do not authorize the administrator to modify or
20 negate in any manner a determination or any portion of a determination
21 made by a hearing officer, appeals officer or court of competent
22 jurisdiction or a provision contained in a written settlement agreement or
23 written stipulation.

24 (b) Impose an administrative fine for:

25 (1) A second or subsequent violation for which a notice of correction
26 has been issued pursuant to paragraph (a); or

27 (2) Any other violation of this chapter or chapter 616A, 616B, 616C
28 or 617 of NRS, or any regulation adopted pursuant thereto, for which a
29 notice of correction may not be issued pursuant to paragraph (a).

30 The fine imposed may not be greater than \$250 for an initial violation, or
31 more than \$1,000 for any second or subsequent violation.

32 (c) Order a plan of corrective action to be submitted to the administrator
33 within 30 days after the date of the order.

34 3. If the administrator determines that a violation of any of the
35 provisions of paragraphs (a) to (d), inclusive, of subsection 1 has occurred,
36 the administrator shall order the insurer, organization for managed care,
37 health care provider, third-party administrator or employer to pay to the
38 claimant a benefit penalty in an amount that is not less than \$5,000 and not
39 greater than \$25,000. To determine the amount of the benefit penalty, the
40 administrator shall consider the degree of physical harm suffered by the
41 injured employee or his dependents as a result of the violation of paragraph
42 (a), (b), (c) or (d) of subsection 1, the amount of compensation found to be
43 due the claimant and the number of fines and benefit penalties previously
44 imposed against the insurer, organization for managed care, health care
45 provider, third-party administrator or employer pursuant to this section. If
46 this is the third violation within 5 years for which a benefit penalty has
47 been imposed against the insurer, organization for managed care, health
48 care provider, third-party administrator or employer, the administrator shall
49 also consider the degree of economic harm suffered by the injured



1 employee or his dependents as a result of the violation of paragraph (a),
2 (b), (c) or (d) of subsection 1. Except as otherwise provided in this section,
3 the benefit penalty is for the benefit of the claimant and must be paid
4 directly to him within 10 days after the date of the administrator's
5 determination. If the claimant is the injured employee and he dies before
6 the benefit penalty is paid to him, the benefit penalty must be paid to his
7 estate. Proof of the payment of the benefit penalty must be submitted to the
8 administrator within 10 days after the date of his determination unless an
9 appeal is filed pursuant to NRS 616D.140. Any compensation to which the
10 claimant may otherwise be entitled pursuant to chapters 616A to 616D,
11 inclusive, or chapter 617 of NRS must not be reduced by the amount of any
12 benefit penalty received pursuant to this subsection.

13 4. In addition to any fine or benefit penalty imposed pursuant to this
14 section, the administrator may assess against an insurer who violates any
15 regulation concerning the reporting of claims expenditures used to
16 calculate an assessment an administrative penalty of up to twice the
17 amount of any underpaid assessment.

18 5. If:

19 (a) The administrator determines that a person has violated any of the
20 provisions of NRS 616D.200, 616D.220, 616D.240, 616D.300, 616D.310
21 or 616D.350 to 616D.440, inclusive; and

22 (b) The fraud control unit for industrial insurance established pursuant
23 to NRS 228.420 notifies the administrator that the unit will not prosecute
24 the person for that violation,
25 the administrator shall impose an administrative fine of not more than
26 \$10,000.

27 6. Two or more fines of \$1,000 or more imposed in 1 year for acts
28 enumerated in subsection 1 must be considered by the commissioner as
29 evidence for the withdrawal of:

30 (a) A certificate to act as a self-insured employer.

31 (b) A certificate to act as an association of self-insured public or private
32 employers.

33 (c) A certificate of registration as a third-party administrator.

34 7. The commissioner may, without complying with the provisions of
35 NRS 616B.327 or 616B.431, withdraw the certification of a self-insured
36 employer, association of self-insured public or private employers, or third-
37 party administrator if, after a hearing, it is shown that the self-insured
38 employer, association of self-insured public or private employers, or third-
39 party administrator violated any provision of subsection 1.

40 **Sec. 7.** NRS 617.401 is hereby amended to read as follows:

41 617.401 1. The division shall designate one:

42 (a) Third-party administrator who has a valid certificate issued by the
43 commissioner pursuant to NRS 683A.085; or

44 (b) Insurer, other than a self-insured employer or association of self-
45 insured public or private employers,
46 to administer claims against the uninsured employers' claim fund. The
47 designation must be made pursuant to reasonable competitive bidding
48 procedures established by the administrator.



* S B 2 0 9 *

- 1 2. An employee may receive compensation from the uninsured
2 employers' claim fund if:
- 3 (a) He was hired in this state or he is regularly employed in this state;
4 (b) He contracts an occupational disease ~~as a result of work performed~~
5 ~~in this state;~~ *that arose out of and in the course of employment;*
6 (c) He files a claim for compensation with the division; and
7 (d) He makes an irrevocable assignment to the division of a right to be
8 subrogated to the rights of the employee pursuant to NRS 616C.215.
- 9 3. If the division receives a claim pursuant to subsection 2, the division
10 shall immediately notify the employer of the claim.
- 11 4. For the purposes of this section, the employer has the burden of
12 proving that he provided mandatory coverage for occupational diseases for
13 the employee or that he was not required to maintain industrial insurance
14 for the employee.
- 15 5. Any employer who has failed to provide mandatory coverage
16 required by the provisions of this chapter is liable for all payments made on
17 his behalf, including, but not limited to, any benefits, administrative costs
18 or attorney's fees paid from the uninsured employers' claim fund or
19 incurred by the division.
- 20 6. The division:
- 21 (a) May recover from the employer the payments made by the division
22 that are described in subsection 5 and any accrued interest by bringing a
23 civil action in district court.
- 24 (b) In any civil action brought against the employer, is not required to
25 prove that negligent conduct by the employer was the cause of the
26 occupational disease.
- 27 (c) May enter into a contract with any person to assist in the collection
28 of any liability of an uninsured employer.
- 29 (d) In lieu of a civil action, may enter into an agreement or settlement
30 regarding the collection of any liability of an uninsured employer.
- 31 7. The division shall:
- 32 (a) Determine whether the employer was insured within 30 days after
33 receiving the claim from the employee.
- 34 (b) Assign the claim to the third-party administrator or insurer
35 designated pursuant to subsection 1 for administration and payment of
36 compensation.
- 37 Upon determining whether the claim is accepted or denied, the designated
38 third-party administrator or insurer shall notify the injured employee, the
39 named employer and the division of its determination.
- 40 8. Upon demonstration of the:
- 41 (a) Costs incurred by the designated third-party administrator or insurer
42 to administer the claim or pay compensation to the injured employee; or
43 (b) Amount that the designated third-party administrator or insurer will
44 pay for administrative expenses or compensation to the injured employee
45 and that such amounts are justified by the circumstances of the claim,
46 the division shall authorize payment from the uninsured employers' claim
47 fund.
- 48 9. Any party aggrieved by a determination regarding the
49 administration of an assigned claim or a determination made by the



* S B 2 0 9 *

1 division or by the designated third-party administrator or insurer regarding
2 any claim made pursuant to this section may appeal that determination
3 within 60 days after the determination is rendered to the hearings division
4 of the department of administration in the manner provided by NRS
5 616C.305 and 616C.315 to 616C.385, inclusive.

6 10. All insurers shall bear a proportionate amount of a claim made
7 pursuant to this chapter, and are entitled to a proportionate amount of any
8 collection made pursuant to this section as an offset against future
9 liabilities.

10 11. An uninsured employer is liable for the interest on any amount
11 paid on his claims from the uninsured employers' claim fund. The interest
12 must be calculated at a rate equal to the prime rate at the largest bank in
13 Nevada, as ascertained by the commissioner of financial institutions, on
14 January 1 or July 1, as the case may be, immediately preceding the date of
15 the claim, plus 3 percent, compounded monthly, from the date the claim is
16 paid from the fund until payment is received by the division from the
17 employer.

18 12. Attorney's fees recoverable by the division pursuant to this section
19 must be:

20 (a) If a private attorney is retained by the division, paid at the usual and
21 customary rate for that attorney.

22 (b) If the attorney is an employee of the division, paid at the rate
23 established by regulations adopted by the division.

24 Any money collected must be deposited to the uninsured employers' claim
25 fund.

26 13. In addition to any other liabilities provided for in this section, the
27 administrator may impose an administrative fine of not more than \$10,000
28 against an employer if the employer fails to provide mandatory coverage
29 required by the provisions of this chapter.

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

