
ASSEMBLY BILL NO. 58—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE INTERIM STUDY COMMITTEE ON NEVADA'S
INDUSTRIAL INSURANCE PROGRAM)

FEBRUARY 16, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Enacts various provisions relating to industrial insurance. (BDR 53-250)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to industrial insurance; requiring the licensure of certain insurance adjusters who handle claims involving industrial insurance; requiring the payment of compensation for the lost wages of injured employees who receive medical treatment under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under the Nevada Insurance Code, certain insurance adjusters must be licensed
2 by the Commissioner of Insurance. (NRS 684A.010-684A.260) A person who fails
3 to obtain such a license when required is guilty of a gross misdemeanor and is
4 subject to an administrative fine imposed by the Commissioner. (NRS 684A.040)

5 This bill requires certain persons who adjust claims involving industrial
6 insurance to obtain a license as an adjuster of industrial insurance if the person is
7 not already required to be licensed as an insurance adjuster under the Nevada
8 Insurance Code. The Commissioner is required to adopt regulations establishing the
9 requirements and procedure for obtaining a license as an adjuster of industrial
10 insurance.

11 Under existing law, certain injured employees are entitled to be paid workers'
12 compensation for an industrial injury or occupational disease. (Chapters 616A-617
13 of NRS)

14 This bill entitles certain injured employees to be paid an additional amount of
15 workers' compensation to cover their lost wages if they must miss work and travel
16 more than 20 miles one way from their home or workplace to receive medical
17 treatment for their injury or disease. This bill prohibits an employer from requiring



18 the injured employee to use sick leave or any other type of personal leave while the
19 employee is receiving such medical treatment.

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
2 adding thereto the provisions set forth as sections 2 to 6, inclusive,
3 of this act.

4 **Sec. 2.** *As used in sections 2 to 6, inclusive, of this act, unless*
5 *the context otherwise requires, "adjuster of industrial insurance"*
6 *means a person who, on behalf of an insurer or third-party*
7 *administrator, investigates, adjusts and settles any claim for*
8 *compensation pursuant to the provisions of chapters 616A to 617,*
9 *inclusive, of NRS.*

10 **Sec. 3.** *The provisions of sections 2 to 6, inclusive, of this act*
11 *do not apply to:*

12 1. *A person who holds a license as an adjuster or associate*
13 *adjuster issued by the Commissioner pursuant to the provisions of*
14 *chapter 684A of NRS.*

15 2. *An attorney at law who investigates, adjusts and settles*
16 *insurance losses from time to time incidental to the practice of his*
17 *profession.*

18 3. *A person who, on behalf of an insurer or third-party*
19 *administrator, performs only clerical, secretarial or ministerial*
20 *tasks relating to the investigation, adjustment or settlement of any*
21 *claim for compensation pursuant to the provisions of chapters*
22 *616A to 617, inclusive, of NRS.*

23 **Sec. 4.** 1. *A person shall not act as, or hold himself out to*
24 *be, an adjuster of industrial insurance unless the person is*
25 *licensed by the Commissioner pursuant to this section.*

26 2. *The Commissioner shall adopt regulations to carry out the*
27 *provisions of this section, including, without limitation,*
28 *regulations which establish:*

29 (a) *The requirements for licensure of an adjuster of industrial*
30 *insurance;*

31 (b) *The procedure for such licensure; and*

32 (c) *The causes for revocation of such a license, including any*
33 *applicable action listed in NRS 616D.120 or a violation of this*
34 *section.*

35 3. *Any adjuster of industrial insurance who is employed by or*
36 *contracts with an insurer or third-party administrator to*
37 *investigate, adjust or settle a claim for compensation pursuant to*
38 *the provisions of chapters 616A to 617, inclusive, of NRS is an*



1 *agent of the insurer or third-party administrator. If the adjuster of*
2 *industrial insurance violates any provision of chapters 616A to*
3 *617, inclusive, of NRS, the insurer or third-party administrator is*
4 *liable for any penalty assessed because of that violation.*

5 4. *An insurer or third-party administrator shall not make the*
6 *compensation of any adjuster of industrial insurance contingent*
7 *upon the outcome of any claim for compensation pursuant to the*
8 *provisions of chapters 616A to 617, inclusive, of NRS.*

9 5. *The Commissioner shall collect in advance and deposit*
10 *with the State Treasurer for credit to the State General Fund the*
11 *following fees for licensure as an adjuster of industrial insurance:*

12 (a) *Application and license..... \$78*

13 (b) *Triennial renewal of each license 78*

14 6. *In addition to any other remedy or penalty, a person who*
15 *acts as, or holds himself out to be, an adjuster of industrial*
16 *insurance without being licensed pursuant to this section:*

17 (a) *Is guilty of a gross misdemeanor; and*

18 (b) *Is subject to an administrative fine imposed by the*
19 *Commissioner of not more than \$1,000 for each violation.*

20 **Sec. 5. 1.** *In addition to any other requirements:*

21 (a) *An applicant for the issuance of a license to practice as an*
22 *adjuster of industrial insurance pursuant to section 4 of this act*
23 *shall include the social security number of the applicant in the*
24 *application submitted to the Commissioner.*

25 (b) *An applicant for the issuance or renewal of a license to*
26 *practice as an adjuster of industrial insurance pursuant to section*
27 *4 of this act shall submit to the Commissioner the statement*
28 *prescribed by the Welfare Division of the Department of Human*
29 *Resources pursuant to NRS 425.520. The statement must be*
30 *completed and signed by the applicant.*

31 2. *The Commissioner shall include the statement required*
32 *pursuant to subsection 1 in:*

33 (a) *The application or any other forms that must be submitted*
34 *for the issuance or renewal of the license; or*

35 (b) *A separate form prescribed by the Commissioner.*

36 3. *A license to practice as an adjuster of industrial insurance*
37 *pursuant to section 4 of this act may not be issued or renewed by*
38 *the Commissioner if the applicant:*

39 (a) *Fails to submit the statement required pursuant to*
40 *subsection 1; or*

41 (b) *Indicates on the statement submitted pursuant to*
42 *subsection 1 that he is subject to a court order for the support of a*
43 *child and is not in compliance with the order or a plan approved*



1 *by the district attorney or other public agency enforcing the order*
2 *for the repayment of the amount owed pursuant to the order.*

3 *4. If an applicant indicates on the statement submitted*
4 *pursuant to subsection 1 that he is subject to a court order for the*
5 *support of a child and is not in compliance with the order or a*
6 *plan approved by the district attorney or other public agency*
7 *enforcing the order for the repayment of the amount owed*
8 *pursuant to the order, the Commissioner shall advise the applicant*
9 *to contact the district attorney or other public agency enforcing*
10 *the order to determine the actions that the applicant may take to*
11 *satisfy the arrearage.*

12 **Sec. 6. 1.** *If the Commissioner receives a copy of a court*
13 *order issued pursuant to the provisions of NRS 425.540 that*
14 *provides for the suspension of all professional, occupational and*
15 *recreational licenses, certificates and permits issued to a person*
16 *who is the holder of a license to practice as an adjuster of*
17 *industrial insurance pursuant to section 4 of this act, the*
18 *Commissioner shall deem the license issued to that person to be*
19 *suspended at the end of the 30th day after the date on which the*
20 *court order was issued unless the Commissioner receives a letter*
21 *issued to the holder of the license by the district attorney or other*
22 *public agency pursuant to the provisions of NRS 425.550 stating*
23 *that the holder of the license has complied with the subpoena or*
24 *warrant or has satisfied the arrearage pursuant to the provisions*
25 *of NRS 425.560.*

26 *2. The Commissioner shall reinstate a license to practice as*
27 *an adjuster of industrial insurance pursuant to section 4 of this*
28 *act that has been suspended by a district court pursuant to the*
29 *provisions of NRS 425.540 if the Commissioner receives a letter*
30 *issued by the district attorney or other public agency pursuant to*
31 *the provisions of NRS 425.550 to the person whose license was*
32 *suspended stating that the person whose license was suspended*
33 *has complied with the subpoena or warrant or has satisfied the*
34 *arrearage pursuant to the provisions of NRS 425.560.*

35 **Sec. 7.** NRS 616A.465 is hereby amended to read as follows:

36 616A.465 1. Except as otherwise provided in this section, the
37 Division shall:

38 (a) Regulate insurers pursuant to chapters 616A to 617,
39 inclusive, of NRS;

40 (b) Investigate insurers regarding compliance with statutes and
41 the Division's regulations;

42 (c) Determine whether an employee leasing company is entitled
43 to a certificate of registration pursuant to NRS 616B.673; and

44 (d) Regulate employee leasing companies pursuant to the
45 provisions of NRS 616B.670 to 616B.697, inclusive.



1 2. The Commissioner is responsible for ~~reviewing~~ :
2 (a) *Licensing adjusters of industrial insurance pursuant to*
3 *section 4 of this act.*

4 (b) *Reviewing* rates, investigating the solvency of insurers,
5 authorizing private carriers pursuant to chapter 680A of NRS and
6 certifying:

7 ~~(a)~~ (1) Self-insured employers pursuant to NRS 616B.300 to
8 616B.330, inclusive, and 616B.336;

9 ~~(b)~~ (2) Associations of self-insured public or private employers
10 pursuant to NRS 616B.350 to 616B.446, inclusive; and

11 ~~(c)~~ (3) Third-party administrators pursuant to chapter 683A
12 of NRS.

13 3. The Department of Administration is responsible for
14 contested claims relating to industrial insurance pursuant to NRS
15 616C.310 to 616C.385, inclusive. The Administrator is responsible
16 for administrative appeals pursuant to NRS 616B.215.

17 4. The Nevada Attorney for Injured Workers is responsible for
18 legal representation of claimants pursuant to NRS 616A.435 to
19 616A.460, inclusive, and 616D.120.

20 5. The Division is responsible for the investigation of
21 complaints. If a complaint is filed with the Division, the
22 Administrator shall cause to be conducted an investigation which
23 includes a review of relevant records and interviews of affected
24 persons. If the Administrator determines that a violation may have
25 occurred, the Administrator shall proceed in accordance with the
26 provisions of NRS 616D.120 and 616D.130.

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

29 **Sec. 8.** NRS 616A.490 is hereby amended to read as follows:

30 616A.490 *1.* Every employer shall post a notice upon his
31 premises in a conspicuous place identifying his industrial insurer.
32 The notice must include the insurer's name, business address and
33 telephone number and the name, business address and telephone
34 number of its nearest *licensed* adjuster in this State. The employer
35 shall at all times maintain the notice provided for the information of
36 his employees.

37 *2. As used in this section, "licensed adjuster" means a person*
38 *who holds a license as:*

39 (a) *An adjuster of industrial insurance issued by the*
40 *Commissioner pursuant to the provisions of section 4 of this act;*
41 *or*

42 (b) *An adjuster or associate adjuster issued by the*
43 *Commissioner pursuant to the provisions of chapter 684A of NRS.*



1 **Sec. 9.** Chapter 616C of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. Except as otherwise provided in subsection 2, in addition to***
4 ***any other benefits an injured employee is entitled to receive***
5 ***pursuant to chapters 616A to 617, inclusive, of NRS, an injured***
6 ***employee who receives medical treatment for his injury after he***
7 ***returns to work is entitled to compensation pursuant to this***
8 ***subsection for each hour he is absent from work to receive such***
9 ***medical treatment if he is required to travel more than 20 miles***
10 ***one way from his residence or place of employment to receive such***
11 ***medical treatment. An injured employee must be paid***
12 ***compensation pursuant to this subsection at a rate equal to the***
13 ***compensation that the employee would be paid pursuant to NRS***
14 ***616C.475 if he had a temporary total disability.***

15 ***2. The provisions of subsection 1 do not apply to an injured***
16 ***employee who is paid his regular hourly rate of pay by his***
17 ***employer for each hour he is absent from work to receive such***
18 ***medical treatment.***

19 ***3. An employer may not require an injured employee to use***
20 ***sick leave, annual leave, compensatory leave or any other personal***
21 ***leave for his absence from work to receive medical treatment for***
22 ***his injury after he returns to work. The provisions of this***
23 ***subsection apply whether the injured employee is being paid***
24 ***compensation pursuant to subsection 1 or his regular hourly rate***
25 ***of pay pursuant to subsection 2.***

26 **Sec. 10.** NRS 616C.050 is hereby amended to read as follows:

27 616C.050 1. An insurer shall provide to each claimant:

28 (a) Upon written request, one copy of any medical information
29 concerning his injury or illness.

30 (b) A statement which contains information concerning the
31 claimant's right to:

32 (1) Receive the information and forms necessary to file a
33 claim;

34 (2) Select a treating physician or chiropractor and an
35 alternative treating physician or chiropractor in accordance with the
36 provisions of NRS 616C.090;

37 (3) Request the appointment of the Nevada Attorney for
38 Injured Workers to represent him before the appeals officer;

39 (4) File a complaint with the Administrator;

40 (5) When applicable, receive compensation for:

41 (I) Permanent total disability;

42 (II) Temporary total disability;

43 (III) Permanent partial disability;

44 (IV) Temporary partial disability; ~~for~~

45 (V) All medical costs related to his injury or disease; *or*



(VI) The hours he is absent from work to receive medical treatment pursuant to section 9 of this act;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection 7 of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 11. NRS 616C.400 is hereby amended to read as follows:

616C.400 1. Temporary compensation benefits must not be paid under chapters 616A to 616D, inclusive, of NRS for an injury which does not incapacitate the employee for at least 5 consecutive days, or 5 cumulative days within a 20-day period, from earning full wages, but if the incapacity extends for 5 or more consecutive days, or 5 cumulative days within a 20-day period, compensation must then be computed from the date of the injury.

2. The period prescribed in this section does not apply to ~~accident~~:

(a) *Accident* benefits, whether they are furnished pursuant to NRS 616C.255 or 616C.265, if the injured employee is otherwise covered by the provisions of chapters 616A to 616D, inclusive, of NRS and entitled to those benefits.

(b) *Compensation paid to the injured employee pursuant to subsection 1 of section 9 of this act.*

Sec. 12. NRS 616C.408 is hereby amended to read as follows:

616C.408 1. An insurer shall not issue a check pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for the payment of permanent total disability benefits that includes a restrictive endorsement.

2. An insurer may issue a check pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for the payment of temporary total disability, temporary partial disability, permanent partial disability, ~~for~~ rehabilitation maintenance benefits *or compensation paid pursuant to subsection 1 of section 9 of this act* that includes a restrictive endorsement.

3. If an insurer issues a check that includes a restrictive endorsement pursuant to subsection 2, the restrictive endorsement must:



- 1 (a) Clearly and accurately state the restrictive conditions; and
- 2 (b) Not provide for any condition or restriction not authorized
- 3 under the provisions of chapters 616A to 616D, inclusive, or chapter
- 4 617 of NRS.

5 **Sec. 13.** Section 9 of this act applies only to medical treatment
6 which an injured employee receives on or after July 1, 2005,
7 regardless of when the injury occurred.

8 **Sec. 14.** 1. This section becomes effective upon passage and
9 approval.
10 2. Sections 1 to 8, inclusive, of this act become effective upon
11 passage and approval for the purpose of adopting any regulations
12 necessary to carry out the provisions of those sections, and on
13 January 1, 2006, for all other purposes.

14 3. Sections 9 to 13, inclusive, of this act become effective on
15 July 1, 2005.

16 4. Sections 5 and 6 of this act expire by limitation on the date
17 on which the provisions of 42 U.S.C. § 666 requiring each state to
18 establish procedures under which the state has authority to withhold
19 or suspend, or to restrict the use of professional, occupational and
20 recreational licenses of persons who:

21 (a) Have failed to comply with a subpoena or warrant relating to
22 a proceeding to determine the paternity of a child or to establish or
23 enforce an obligation for the support of a child; or

24 (b) Are in arrears in the payment for the support of one or more
25 children,

26 ➤ are repealed by the Congress of the United States.

