

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.

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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; requiring the preparation of certain reports concerning the enforcement of the laws governing industrial insurance and the adjudication of claims for benefits; requiring the payment of compensation for the lost wages of certain injured employees who receive medical treatment under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Administrator of the Division of Industrial Relations of the Department of Business and Industry administers and enforces the laws governing workers' compensation. (Chapters 616A-617 of NRS) The Administrator is authorized to impose fines and benefit penalties against insurers, organizations for managed care, health care providers, third-party administrators and employers who violate those laws. (NRS 616D.120)

This bill requires the Administrator to prepare an annual report concerning the use of fines and benefit penalties to enforce the laws governing workers' compensation.

Under existing law, the Chief of the Hearings Division of the Department of Administration is charged with certain duties regarding administrative cases involving claims for workers' compensation benefits. (NRS 616C.295)

This bill requires the Chief of the Hearings Division to prepare an annual report containing information about the disposition of cases involving claims for workers' compensation benefits.



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

This bill entitles certain injured employees to be paid an additional amount of workers' compensation to cover their lost wages if they must miss work and travel more than 50 miles one way from their workplace to receive medical treatment for their injury or disease. This bill prohibits an employer from requiring the injured employee to use sick leave or any other type of personal leave while the employee is receiving such medical treatment.

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

Section 1. Chapter 616A of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Administrator shall prepare an annual report concerning the enforcement of the provisions of chapters 616A to 617, inclusive, of NRS through the imposition of fines and benefit penalties against insurers, organizations for managed care, health care providers, third-party administrators and employers.

2. The annual report must include, without limitation:

(a) The total number of complaints filed with the Administrator involving alleged conduct that is sanctionable by a fine or benefit penalty;

(b) The total number of investigations conducted by the Administrator involving alleged conduct that is sanctionable by a fine or benefit penalty;

(c) The disposition of each such complaint and investigation, including, without limitation, whether the Administrator imposed or refused to impose a fine or benefit penalty and, if the Administrator imposed a fine or benefit penalty, the amount of the fine or benefit penalty; and

(d) The disposition of any administrative appeal or action for judicial review involving the decision of the Administrator to impose or refuse to impose a fine or benefit penalty.

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

1. Except as otherwise provided in subsection 2, in addition to any other benefits an injured employee is entitled to receive pursuant to chapters 616A to 617, inclusive, of NRS, an injured employee who, as a result of his injury, qualified for benefits for a temporary total disability pursuant to NRS 616C.475 and who receives medical treatment for his injury after he returns to work is entitled to compensation pursuant to this subsection for each hour he is absent from the place of employment of the responsible employer to receive such medical treatment if he is required to



1 *travel more than 50 miles one way from the place of employment*
2 *to receive such medical treatment. An injured employee must be*
3 *paid compensation pursuant to this subsection at a rate equal to*
4 *the compensation paid pursuant to NRS 616C.475 for a temporary*
5 *total disability. Such compensation must be calculated based on*
6 *increments of 4 hours or 8 hours.*

7 2. *The provisions of subsection 1 do not apply to an injured*
8 *employee who is paid his regular hourly rate of pay by his*
9 *employer for each hour he is absent from the place of employment*
10 *to receive such medical treatment.*

11 3. *An employer may not require an injured employee to use*
12 *sick leave, annual leave, compensatory leave or any other personal*
13 *leave for his absence from the place of employment to receive*
14 *medical treatment for his injury after he returns to work. The*
15 *provisions of this subsection apply whether the injured employee is*
16 *being paid compensation pursuant to subsection 1 or his regular*
17 *hourly rate of pay pursuant to subsection 2.*

18 4. *The Administrator shall adopt regulations to carry out the*
19 *provisions of this section, including, without limitation,*
20 *regulations which establish:*

21 (a) *The documentation which an injured employee or*
22 *employer is required to submit for the payment of compensation to*
23 *the injured employee pursuant to subsection 1;*

24 (b) *The method for determining the amount of compensation to*
25 *be paid to the injured employee pursuant to subsection 1; and*

26 (c) *A definition of "place of employment" as that term is used*
27 *in this section.*

28 **Sec. 3.** NRS 616C.050 is hereby amended to read as follows:

29 616C.050 1. An insurer shall provide to each claimant:

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

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

34 (1) Receive the information and forms necessary to file a
35 claim;

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

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

41 (4) File a complaint with the Administrator;

42 (5) When applicable, receive compensation for:

43 (I) Permanent total disability;

44 (II) Temporary total disability;



(III) Permanent partial disability;

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

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

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to section 2 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. 4. NRS 616C.295 is hereby amended to read as follows:

616C.295 **1.** The Chief of the Hearings Division ~~of the Department of Administration shall:~~
~~—1.—~~ **shall:**

(a) Prescribe by regulation the qualifications and training required before a person may, pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS, serve as a hearing officer. Training for a hearing officer must include techniques of mediation.

~~(2)~~ **(b)** Provide for the expediting of the hearing of cases that involve the termination or denial of compensation.

2. *From the cases heard each year by hearing officers and appeals officers regarding claims for benefits by injured employees, the Chief of the Hearings Division shall prepare an annual report which itemizes, on the basis of each insurer and third-party administrator, the number of cases affirmed, reversed, remanded and resolved by other disposition involving that insurer or third-party administrator, including a breakdown of that information by the type of benefits denied by the insurer or third-party administrator.*

3. *As used in this section, "Chief of the Hearings Division" means the Chief of the Hearings Division of the Department of Administration.*

Sec. 5. 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



1 days, or 5 cumulative days within a 20-day period, from earning full
2 wages, but if the incapacity extends for 5 or more consecutive days,
3 or 5 cumulative days within a 20-day period, compensation must
4 then be computed from the date of the injury.

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

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

11 (b) *Compensation paid to the injured employee pursuant to*
12 *subsection 1 of section 2 of this act.*

13 **Sec. 6.** NRS 616C.408 is hereby amended to read as follows:

14 616C.408 1. An insurer shall not issue a check pursuant to
15 the provisions of chapters 616A to 616D, inclusive, or chapter 617
16 of NRS for the payment of permanent total disability benefits that
17 includes a restrictive endorsement.

18 2. An insurer may issue a check pursuant to the provisions of
19 chapters 616A to 616D, inclusive, or chapter 617 of NRS for the
20 payment of temporary total disability, temporary partial disability,
21 permanent partial disability , ~~for~~ rehabilitation maintenance
22 benefits *or compensation paid pursuant to subsection 1 of section*
23 *2 of this act* that includes a restrictive endorsement.

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

27 (a) Clearly and accurately state the restrictive conditions; and

28 (b) Not provide for any condition or restriction not authorized
29 under the provisions of chapters 616A to 616D, inclusive, or chapter
30 617 of NRS.

31 **Sec. 7.** Section 2 of this act applies only to medical treatment
32 which an injured employee receives for an industrial injury or a
33 disablement from an occupational disease that occurs on or after
34 January 1, 2006.

35 **Sec. 8.** This act becomes effective upon passage and approval
36 for the purpose of adopting regulations, and on January 1, 2006, for
37 all other purposes.



