

schedule an amount heretofore pledged and necessary for the purposes of bond retirement until such time as any such debt has been satisfied.

NEW SECTION. Sec. 16. Sections 3 and 4, and 6 through 8 of this 1977 amendatory act are added to chapter 223, Laws of 1969 ex. sess. and to chapter 28B.15 RCW.

NEW SECTION. Sec. 17. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 18. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House June 18, 1977.

Passed the Senate June 18, 1977.

Approved by the Governor June 30, 1977.

Filed in Office of Secretary of State June 30, 1977.

CHAPTER 323

[Substitute House Bill No. 604]

INDUSTRIAL INSURANCE

AN ACT Relating to industrial insurance; amending section 51.04.040, chapter 23, Laws of 1961 and RCW 51.04.040; amending section 51.04.070, chapter 23, Laws of 1961 and RCW 51.04.070; amending section 15, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.018; amending section 51.08.030, chapter 23, Laws of 1961 as last amended by section 37, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 51.08.030; amending section 88, chapter 289, Laws of 1971 ex. sess. as amended by section 5, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.175; amending section 14, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.178; amending section 51.12.020, chapter 23, Laws of 1961 as last amended by section 1, chapter 124, Laws of 1973 and RCW 51.12.020; amending section 51.12.110, chapter 23, Laws of 1961 as amended by section 85, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.110; amending section 27, chapter 289, Laws of 1971 ex. sess. as amended by section 16, chapter 43, Laws of 1972 ex. sess. and RCW 51.14.020; amending section 28, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.030; amending section 51.16.060, chapter 23, Laws of 1961, as amended by section 1, chapter 32, Laws of 1973 1st ex. sess. and RCW 51.16.060; amending section 51.16.110, chapter 23, Laws of 1961 as amended by section 4, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.110; amending section 51.16.120, chapter 23, Laws of 1961 as amended by section 13, chapter 43, Laws of 1972 ex. sess. and RCW 51.16.120; amending section 51.32.030, chapter 23, Laws of 1961 and RCW 51.32.030; amending section 1, chapter 19, Laws of 1975-'76 2nd ex. sess. and RCW 51.32.073; amending section 12, chapter 289, Laws of 1971 ex. sess. as amended by section 23, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.095; amending section 51.32.110, chapter 23, Laws of 1961 as amended by section 13, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.110; amending section 51.32.150, chapter 23, Laws of 1961 and RCW 51.32.150; amending section 3, chapter 286, Laws of 1975 1st ex. sess. and RCW 51.32.220; amending section 51.36.030, chapter 23, Laws of 1961 and RCW 51.36.030; amending section 51.44.040, chapter 23, Laws of 1961 as amended by section 27, chapter 43, Laws of 1972 ex. sess. and RCW 51.44.040; amending section 51.48.020, chapter 23, Laws of 1961 as amended by section 63, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.020; amending section 51.48.050, chapter 23, Laws of 1961 and RCW 51.48.050; amending section 51.48.070, chapter 23, Laws of 1961 and RCW 51.48.070; adding new sections to chapter 23, Laws of 1961 and to chapter 51.04 RCW; adding a new section to chapter 23, Laws of 1961 and to chapter 51.16 RCW; repealing section 51.40.010, chapter 23, Laws of 1961 and RCW 51.40.010; repealing section 51.40.020, chapter 23, Laws of 1961, section 1, chapter 36, Laws of 1965, section 2, chapter 80, Laws of 1965 ex. sess. and RCW 51.40.020; repealing section 51.40.030, chapter 23, Laws of 1961 and RCW 51.40.030; repealing section 51.40.040, chapter 23, Laws of 1961, section 29, chapter 106, Laws of 1973 and RCW 51.40.040; repealing section 51.40.050, chapter 23, Laws of 1961 and

RCW 51.40.050; repealing section 51.40.060, chapter 23, Laws of 1961 and RCW 51.40.060; repealing section 51.40.070, chapter 23, Laws of 1961 and RCW 51.40.070; defining crimes; prescribing penalties; prescribing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 51.04.040, chapter 23, Laws of 1961 and RCW 51.04.040 are each amended to read as follows:

The ~~((superior court))~~ director shall have power to issue subpoenas to enforce ~~((by proper proceedings))~~ the attendance and testimony of witnesses and the production and examination of books, papers, photographs, tapes, and records before the department in connection with any claim made to the department, or the assessment or collection of premiums. The superior court shall have the power to enforce any such subpoena by proper proceedings.

Sec. 2. Section 51.04.070, chapter 23, Laws of 1961 and RCW 51.04.070 are each amended to read as follows:

A minor ~~((working at an age legally permitted under the laws of this state))~~ shall be deemed sui juris for the purpose of this title, and no other person shall have any cause of action or right to compensation for an injury to such minor ~~((workman))~~ worker, except as expressly provided in this title, but in the event of ~~((a lump sum payment))~~ any disability payments becoming due under this title to ~~((such))~~ a minor ~~((workman))~~ worker, ~~((the management of the sum shall be within the probate jurisdiction of the courts the same as other property of minors and, in the event it is necessary to procure the appointment of a guardian to receive the money to which any minor workman is entitled under the provisions of this title, the director may allow from the accident fund toward the expenses of such guardianship, not to exceed the sum of fifty dollars in any one case. PROVIDED; That in case any such minor is awarded a lump sum payment of not more than seven hundred fifty dollars, the director may make payment direct to such minor without the necessity of the appointment of a guardian))~~ under the age of eighteen, such disability payments shall be paid to his or her parent, guardian or other person having legal custody of his or her person until he or she reaches the age of eighteen. Upon the submission of written authorization by any such parent, guardian, or other person, any such disability payments may be paid directly to such injured worker under the age of eighteen years. If it is necessary to appoint a legal guardian to receive such disability payments, there shall be paid from the accident fund or by the self-insurer, as the case may be, toward the expenses of such guardianship a sum not to exceed three hundred dollars.

Sec. 3. Section 15, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.018 are each amended to read as follows:

For purposes of this ~~((1971 amendatory act))~~ title, the average monthly wage in the state shall be the average annual wage as determined under RCW 50.04.355 as now or hereafter amended divided by twelve.

Sec. 4. Section 51.08.030, chapter 23, Laws of 1961 as last amended by section 37, chapter 42, Laws of 1975-'76 2nd ex. sess. and RCW 51.08.030 are each amended to read as follows:

"Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, and dependent child in the legal custody and control of the ~~((claimant))~~ worker, all while under the age of eighteen years, or

under the age of ~~((twenty-one))~~ twenty-three years while permanently enrolled at a full time course in an accredited school, and over the age of eighteen years if the child is a dependent invalid child.

Sec. 5. Section 88, chapter 289, Laws of 1971 ex. sess. as amended by section 5, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.175 are each amended to read as follows:

~~((Whenever the term))~~ "State fund" ~~((is used in the provisions of this 1971 amendatory act, it shall))~~ means those funds held by the state or any agency thereof for the purposes of this title. The "state of Washington industrial insurance fund" means the department when acting as the agency to insure the industrial insurance obligation of employers. The terms "state fund" and "state of Washington industrial insurance fund" shall be deemed synonymous when applied to the functions of the department connected with the insuring of employers who secure the payment of industrial insurance benefits through the state. The director shall manage the state fund and the state of Washington industrial insurance fund and shall have such powers as are necessary to carry out its functions and may reinsure any risk insured by the state fund.

Sec. 6. Section 14, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.178 are each amended to read as follows:

(1) For the purposes of this title, the monthly wages the ~~((workman))~~ worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the ~~((workman's))~~ worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the ~~((workman))~~ worker was receiving at the time of the injury:

- (a) By five, if the ~~((workman))~~ worker was normally employed one day a week;
- (b) By nine, if the ~~((workman))~~ worker was normally employed two days a week;
- (c) By thirteen, if the ~~((workman))~~ worker was normally employed three days a week;
- (d) By eighteen, if the ~~((workman))~~ worker was normally employed four days a week;
- (e) By twenty-two, if the ~~((workman))~~ worker was normally employed five days a week;
- (f) By twenty-six, if the worker was normally employed six days a week;
- (g) By thirty, if the ~~((workman))~~ worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer, but shall not include overtime pay, tips, or gratuities. The daily wage shall be ~~((eight times))~~ the hourly wage ~~((unless))~~ multiplied by the number of hours the ~~((workman))~~ worker is normally employed ~~((for less than eight hours))~~.

(2) In cases where a wage has not been fixed or cannot be ~~((reasonable))~~ reasonably and fairly ~~((be))~~ determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

Sec. 7. Section 51.12.020, chapter 23, Laws of 1961 as last amended by section 1, chapter 124, Laws of 1973 and RCW 51.12.020 are each amended to read as follows:

The following are the only employments which shall not be included within the mandatory coverage of this title:

(1) Any person employed as a domestic servant in a private home by an employer who has less than two employees regularly employed forty or more hours a week in such employment.

(2) Any person employed to do gardening, maintenance, repair, remodeling, or similar work in or about the private home of the employer which does not exceed ten consecutive work days.

(3) A person whose work is casual and the employment is not in the course of the trade, business, or profession of his employer.

(4) Any person performing services in return for aid or sustenance only, received from any religious or charitable organization.

(5) Sole proprietors and partners.

(6) Any employee, not regularly and continuously employed by the employer in agricultural labor, whose cash remuneration paid by or due from any one employer in that calendar year for agricultural labor is less than one hundred fifty dollars. Employees not regularly and continuously employed in agricultural labor by any one employer but who are employed in agricultural labor on a seasonal basis shall come under the coverage of this title only when their cash remuneration paid or due in that calendar year exceeds one hundred fifty dollars but only as of the occurrence of that event and only as to their work for that employer.

(7) Any child under eighteen years of age employed by his parent or parents in agricultural activities on the family farm.

(8) Jockeys while participating in or preparing horses for race meets licensed by the Washington horse racing commission pursuant to chapter 67.16 RCW.

Sec. 8. Section 51.12.110, chapter 23, Laws of 1961 as amended by section 85, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.110 are each amended to read as follows:

Any employer who has in his or her employment any exempt person may file notice in writing with the director of his or her election to be subject to this title, and shall forthwith display in a conspicuous manner about his or her works and in a sufficient number of places to reasonably inform his ~~((workmen))~~ or her workers of the fact, printed notices furnished by the department stating that he or she has so elected ~~((and stating when))~~. Said election ~~((with))~~ shall become effective upon the filing of said notice in writing. Any ~~((workman))~~ worker in the employ of such applicant shall be entitled at any time within five days after the posting of said notice by his or her employer, or within five days after he or she has been employed by an employer who has elected to become subject to this title as herein provided, to give a written notice to such employer and to the department of his or her election not to become subject to this title. ~~((At the expiration of the time fixed by the notice of the employer,))~~ The employer and such of his ~~((workmen))~~ or her workers as shall not have given such written notice of their election to the contrary shall be subject to all the provisions of this title and entitled to all of the benefits thereof:

PROVIDED, That those who have heretofore complied with the foregoing conditions and are carried and considered by the department as within the purview of this title shall be deemed and considered as having fully complied with its terms and shall be continued by the department as entitled to all of the benefits and subject to all of the liabilities without other or further action. Any employer who has complied with this section may withdraw his or her acceptance of liability under this title by filing written notice with the director of the withdrawal of his or her acceptance. Such withdrawal shall become effective thirty days after the filing of such notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The employer shall, at least thirty days before the effective date of the withdrawal, post reasonable notice of such withdrawal where the affected (~~(workman)~~) worker or (~~(workmen)~~) workers work and shall otherwise notify personally the affected (~~(workmen)~~) workers. Withdrawal of acceptance of this title shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period of acceptance.

Sec. 9. Section 27, chapter 289, Laws of 1971 ex. sess. as amended by section 16, chapter 43, Laws of 1972 ex. sess. and RCW 51.14.020 are each amended to read as follows:

(1) An employer may qualify as a self-insurer by establishing to the director's satisfaction that he or she has sufficient financial ability to make certain the prompt payment of all compensation under this title and all assessments which may become due from such employer. Each application for certification as a self-insurer submitted by an employer shall be accompanied by payment of a fee of one hundred fifty dollars or such larger sum as the director shall find necessary for the administrative costs of evaluation of the applicant's qualifications. Any employer who has formerly been certified as a self-insurer and thereafter ceases to be so certified may not apply for certification within three years of ceasing to have been so certified.

(2) A self-insurer may (~~(establish sufficient)~~) be required by the director to supplement existing financial ability by depositing in an escrow account in a depository designated by the director, money and/or corporate or governmental securities approved by the director, or a surety bond written by any company admitted to transact surety business in this state filed with the department. The money, securities, or bond shall be in an amount reasonably sufficient in the director's discretion to insure payment of reasonably foreseeable compensation and assessments but not less than the employer's normal expected annual claim liabilities and in no event less than one hundred thousand dollars. In arriving at the amount of money, securities, or bond required under this subsection, the director shall take into consideration the financial ability of the employer to pay compensation and assessments and his or her probable continuity of operation. The money, securities, or bond so deposited shall be held by the director to secure the payment of compensation by the self-insurer and to secure payment of his or her assessments. The amount of security may be increased or decreased from time to time by the director. The income from any securities deposited may be distributed currently to the self-insurer.

(3) Securities or money deposited by an employer pursuant to subsection (2) of this section shall be returned to him or her upon his or her written request provided the employer files the bond required by such subsection.

(4) If the employer seeking to qualify as a self-insurer has previously insured with the state fund, the director shall require the employer to make up his or her proper share of any deficit or insufficiency in the state fund as a condition to certification as a self-insurer.

(5) A self-insurer may reinsure a portion of his or her liability under this title with any reinsurer authorized to transact such reinsurance in this state: PROVIDED, That the reinsurer may not participate in the administration of the responsibilities of the self-insurer under this title. Such reinsurance may not exceed eighty percent of the liabilities under this title.

Sec. 10. Section 28, chapter 289, Laws of 1971 ex. sess. and RCW 51.14.030 are each amended to read as follows:

The director may issue a certification that an employer is qualified as a self-insurer when such employer meets the following requirements:

(1) He or she has fulfilled the requirements of RCW 51.14.020.

(2) He or she has submitted to the department a payroll report for the preceding consecutive twelve month period.

(3) He or she has submitted to the department a sworn itemized statement ~~((indicating))~~ accompanied by an independent audit of the employer's books demonstrating to the director's satisfaction that the employer has sufficient liquid assets to meet his or her estimated liabilities as a self-insurer.

(4) He or she has ~~((submitted))~~ demonstrated to the department ~~((a description))~~ the existence of the safety organization maintained by him or her within his or her establishment that indicates a record of accident prevention.

(5) He or she has submitted to the department a description of the administrative organization to be maintained by him or her to manage industrial insurance matters including:

(a) The reporting of injuries;

(b) The authorization of medical care;

(c) The payment of compensation;

(d) The handling of claims for compensation;

(e) The name and location of each business location of the employer; and

(f) The qualifications of the personnel of the employer to perform this service.

Such certification shall remain in effect until withdrawn by the director or surrendered by the employer with the approval of the director. An employer's qualification as a self-insurer shall become effective on the date of certification or any date specified in the certificate after the date of certification.

Sec. 11. Section 51.16.060, chapter 23, Laws of 1961, as amended by section 1, chapter 32, Laws of 1973 1st ex. sess. and RCW 51.16.060 are each amended to read as follows:

Every employer not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which ~~((workmen))~~ workers were employed by ~~((him))~~ it during the preceding calendar quarter, the total amount paid to such ~~((workmen))~~ workers during such

preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay ((his)) its premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: PROVIDED, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual ((workman)) worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: PROVIDED FURTHER, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: ((AND,)) PROVIDED FURTHER, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll: AND PROVIDED FURTHER, That a temporary help company which provides workers on a temporary basis to its customers shall be considered the employer for purposes of reporting and paying premiums and assessments under this title according to the appropriate rate classifications as determined by the department: PROVIDED, That the employer shall be liable for paying premiums and assessments, should the temporary help company fail to pay the premiums and assessments under this title.

Sec. 12. Section 51.16.110, chapter 23, Laws of 1961 as amended by section 4, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.110 are each amended to read as follows:

Every employer who shall enter into any business, or who shall resume operations in any work or plant after the final adjustment of his or her payroll in connection therewith, or who was formerly a self-insurer and wishes to continue his or her operations subject to this title, shall, before so commencing or resuming or continuing operations, as the case may be, notify the ((director)) department of such fact, accompanying such notification with a cash deposit in a sum equal to the estimated premiums for the first three full calendar months of his or her proposed operations which shall remain on deposit subject to the other provisions of this section.

The ((director)) department may, in ((his)) its discretion and in lieu of such deposit, accept a bond, in an amount which ((he)) it deems sufficient, to secure payment of premiums due or to become due to the accident fund and medical aid fund. The deposit or posting of a bond shall not relieve the employer from paying premiums subsequently due.

Should the employer acquire sufficient assets to assure the payment of premiums due to the accident fund and the medical aid fund the ((director)) department may, in ((his)) its discretion, refund the deposit or cancel the bond.

If the employer ceases to be an employer under ((RCW 51.08.070)) this title, the ((director)) department shall, upon receipt of all payments due the accident

fund and medical aid fund, or any other fund under this title, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond given under this section.

Sec. 13. Section 51.16.120, chapter 23, Laws of 1961 as amended by section 13, chapter 43, Laws of 1972 ex. sess. and RCW 51.16.120 are each amended to read as follows:

(1) Whenever a ~~((workman))~~ worker has ~~((sustained))~~ a previous bodily ~~((infirmity or))~~ disability from any previous injury or disease and shall suffer a further disability from injury or occupational disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof or die when death was substantially accelerated by the combined effects thereof, then the experience record of ~~((the))~~ an employer insured with the state fund at the time of said further injury or disease shall be charged and a self-insured employer shall pay directly into the reserve fund only ~~((with))~~ the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to ~~((the))~~ such employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund. The department shall pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment shall be made as required by such order.

(2) The department shall, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

(3) To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ.

Sec. 14. Section 51.32.030, chapter 23, Laws of 1961 and RCW 51.32.030 are each amended to read as follows:

Any ~~((individual employer or any member or officer of any corporate employer who is carried upon the payroll at a salary or wage not less than the average salary or wage named in such payroll))~~ sole proprietor, partner, or joint venturer who has requested coverage under this title and who shall thereafter be injured or sustain an occupational disease, shall be entitled to the benefit of this title, as and under the same circumstances and subject to the same obligations as a ~~((workman))~~ worker: PROVIDED, That no such ~~((employer))~~ person or the beneficiaries ~~((of such employer))~~ thereof shall be entitled to benefits under this title unless the ~~((director, prior to the date of the injury,))~~ department has received notice in writing ~~((of the~~

fact that such employer is being carried upon the payroll)) of such request on such forms as the department may provide prior to the date of the injury or occupational disease as the result of which claims ((for a compensation)) are made: PROVIDED, That the department shall have the power to cancel the personal coverage of any such person if any required payments or reports have not been made.

Sec. 15. Section 1, chapter 19, Laws of 1975-'76 2nd ex. sess. and RCW 51.32.073 are each amended to read as follows:

Each employer shall retain from the earnings of each ((workman)) worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: PROVIDED, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075 as now or hereafter amended and shall be no more than necessary to make such payments on a current basis. The department may require a self-insurer to make any additional payments which are payable from the supplemental pension fund and thereafter such self-insurer shall be reimbursed therefrom.

Sec. 16. Section 12, chapter 289, Laws of 1971 ex. sess. as amended by section 23, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.095 are each amended to read as follows:

One of the primary purposes of this title is the restoration of the injured ((workman)) worker to gainful employment. To this end, the department shall utilize the services of individuals whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation or retraining as may be reasonable to qualify the ((workman)) worker for employment consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals and prior to final evaluation of the ((workman's)) worker's permanent disability and in the sole opinion of the supervisor, vocational rehabilitation or retraining is both necessary and likely to restore the injured ((workman)) worker to a form of gainful employment, the supervisor may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost of books, tuition, fees, supplies, equipment, and transportation for any such worker in an amount not to exceed one thousand five hundred dollars in any calendar year, and continue the temporary total disability compensation under RCW 51.32.090 while the ((workman)) worker is actively and successfully undergoing a formal program of vocational rehabilitation or retraining: PROVIDED, That such compensation or payment of such vocational rehabilitation or retraining expenses may not be authorized for a period of more than fifty-two weeks: PROVIDED FURTHER, That such period may, in the sole discretion of

the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the ~~((workman))~~ worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer ~~((for workmen to whom he is liable for compensation and benefits under the provisions of this title))~~ as the case may be.

Sec. 17. Section 51.32.110, chapter 23, Laws of 1961 as amended by section 13, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.110 are each amended to read as follows:

Any ~~((workman))~~ worker entitled to receive ~~((compensation))~~ any benefits or claiming ~~((compensation))~~ such under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the ~~((workman))~~ worker and as may be provided by the rules of the department. If the ~~((workman))~~ worker refuses to submit to medical examination, or obstructs the same, or, if any injured ~~((workman))~~ worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery or refuse or obstruct evaluation or examination for the purpose of vocational rehabilitation or does not cooperate in reasonable efforts at such rehabilitation, the department or the self-insurer upon approval by the department, with notice to the ~~((workman))~~ worker may ~~((reduce or))~~ suspend ~~((the compensation))~~ any further action on any claim of such ~~((workman))~~ worker so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period: PROVIDED, That the department or the self-insurer shall not suspend any further action on any claim of a worker or reduce, suspend, or deny any compensation if a worker has good cause for refusing to submit to or to obstruct any examination, evaluation, treatment or practice requested by the department or required under this section. If the ~~((workman))~~ worker necessarily incurs traveling expenses in attending for examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit or shall be repaid by the self-insurer, as the case may be.

If the medical examination required by this section causes the ~~((workman))~~ worker to be absent from his or her work without pay he or she shall be paid for such time lost in accordance with the schedule of payments provided in RCW 51.32.090 as amended.

Sec. 18. Section 51.32.150, chapter 23, Laws of 1961 and RCW 51.32.150 are each amended to read as follows:

If a beneficiary shall reside or ~~((remove))~~ move out of the state, the department may, with the written consent of the beneficiary, convert any monthly payments provided for such cases into a lump sum payment (not in any case to exceed the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, but in no case to exceed the sum ~~((of eighty-five hundred dollars))~~ provided in RCW 51.32.130 as now or hereafter amended).

Sec. 19. Section 3, chapter 286, Laws of 1975 1st ex. sess. and RCW 51.32.220 are each amended to read as follows:

For persons under the age of sixty-two receiving compensation for temporary or permanent total disability pursuant to the provisions of chapter 51.32 RCW, such compensation shall be reduced by an amount equal to the benefits payable under the federal old-age, survivors and disability insurance act as now or hereafter amended not to exceed the amount of the reduction established pursuant to 42 USC 424a. However, such reduction shall not apply when the combined compensation provided pursuant to chapter 51.32 RCW and the federal old-age, survivors and disability insurance act is less than the total benefits to which the federal reduction would apply, pursuant to 42 USC 424a. Where any person described in this section refuses to authorize the release of information concerning the amount of benefits payable under said federal act the department's estimate of said amount shall be deemed to be correct unless and until the actual amount is established and no adjustment shall be made for any period of time covered by any such refusal.

Sec. 20. Section 51.36.030, chapter 23, Laws of 1961 and RCW 51.36.030 are each amended to read as follows:

Every employer, who employs (~~less than fifty workmen~~) workers, shall keep (~~at his plant~~) as required by the department's rules a first aid kit or kits equipped as required by ((the department)) such rules with materials for first aid to his or her injured ((workmen)) workers. Every employer who employs (~~within a radius of one-half mile of any plant or establishment~~) fifty or more ((workmen)) workers, shall keep one first aid station equipped as required by the department's rules with materials for first aid to his or her injured ((workmen)) workers, and shall cooperate with the department in training one or more employees in first aid to the injured. The maintenance of such first aid kits and stations shall be deemed to be a part of any (~~educational~~) safety and health standards established under Title 49 RCW.

Sec. 21. Section 51.44.040, chapter 23, Laws of 1961 as amended by section 27, chapter 43, Laws of 1972 ex. sess. and RCW 51.44.040 are each amended to read as follows:

(1) There shall be in the office of the state treasurer, a fund to be known and designated as the "second injury fund", which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120 as now or hereafter amended. Said fund shall be administered by the director. The state treasurer shall be the custodian of the second injury fund and shall be authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund shall be made pursuant to rules and regulations promulgated by the director.

(3) Assessments for the second injury fund shall be imposed on self-insurers pursuant to rules and regulations promulgated by the director to ensure that self-insurers shall pay to such fund in the proportion that the payments made from such fund on account of claims made against self-insurers bears to the total sum of payments from such fund.

Sec. 22. Section 51.48.020, chapter 23, Laws of 1961 as amended by section 63, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.020 are each amended to read as follows:

(1) Any employer, who misrepresents to the department the amount of his or her payroll upon which the premium under this title is based, shall be liable to the state in ten times the amount of the difference in premiums paid and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department. Such an employer shall also be guilty of a ~~((misdemeanor))~~ class C felony if such misrepresentations are made knowingly, if the amount of the difference in premiums is five hundred dollars or more and shall be guilty of a gross misdemeanor if such amount is less than five hundred dollars.

(2) Any person claiming benefits under this title, who knowingly gives false information required in any claim or application under this title shall be guilty of a class C felony when such claim or application involves an amount of five hundred dollars or more. When such claim or application involves an amount less than five hundred dollars, the person giving such information shall be guilty of a gross misdemeanor.

Sec. 23. Section 51.48.050, chapter 23, Laws of 1961 and RCW 51.48.050 are each amended to read as follows:

It shall be unlawful for any employer to directly or indirectly demand or collect from any of his ~~((workmen))~~ or her workers any sum of money whatsoever for or on account of medical, surgical, hospital, or other treatment or transportation of injured ~~((workmen))~~ workers, other than as specified in RCW 51.16.140 ~~((and 51-40.040))~~, and any employer who directly or indirectly violates the foregoing provisions of this section shall be liable to the state for the benefit of the medical aid fund in ten times the amount so demanded or collected, and such employer and every officer, agent, or servant of such employer knowingly participating therein shall also be guilty of a misdemeanor.

Sec. 24. Section 51.48.070, chapter 23, Laws of 1961 and RCW 51.48.070 are each amended to read as follows:

If any ~~((workman))~~ worker is injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance, or any departmental regulation under any statute, or is, at the time of the injury, of less than the maximum age prescribed by law for the employment of a minor in the occupation in which he or she is engaged when injured, or when a minor is injured when engaged in work not authorized by any required work permit issued for his or her employment or where no such permit has been issued, the employer shall, within ten days after the demand therefor by the department, pay into the ~~((accident))~~ supplemental pension fund in addition to all other payments required by law:

(1) In case ~~((the))~~ any consequent payment ~~((to the workman out of the accident fund))~~ is ~~((a lump sum))~~ for any permanent partial disability or temporary disability, a sum equal to fifty percent of ~~((that))~~ the amount so paid.

(2) In case ~~((the))~~ any consequent payment ~~((to the workman))~~ is payable in monthly payments or otherwise for permanent total disability or death, a sum equal

to fifty percent of the lump value of such monthly payment, estimated in accordance with the rule stated in RCW 51.32.130.

The foregoing provisions shall not apply to the employer if the absence of such guard or protection is due to the removal thereof by the injured ~~((workman))~~ worker himself or herself or with his or her knowledge by any of his or her fellow ~~((workmen))~~ workers, unless such removal is by order or direction of the employer or superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such ~~((workman))~~ worker. If the removal of such guard or protection is by the ~~((workman))~~ worker himself or herself or with his or her consent by any of his or her fellow ~~((workmen))~~ workers, unless by order or direction of the employer or the superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such ~~((workman))~~ worker, the schedule of compensation provided in chapter 51.32 RCW shall be reduced ten percent for the individual case of such ~~((workman))~~ worker.

NEW SECTION. Sec. 25. There is added to chapter 23, Laws of 1961 and to chapter 51.04 RCW a new section to read as follows:

The obligations of all medical aid contracts approved by the supervisor prior to the repeal of any section of this title pertaining to medical aid contracts shall continue until the expiration of such contracts notwithstanding any such repeal and all provisions of this title pertaining to the operation of medical aid contracts and the control and supervision of such contracts which were in effect at the time of such approval shall, notwithstanding any other provision of law, remain in full force and effect.

NEW SECTION. Sec. 26. There is added to chapter 23, Laws of 1961 and to chapter 51.04 RCW a new section to read as follows:

The department may, at any time, on receipt of written authorization, transmit amounts payable to a claimant, beneficiary, or any supplier of goods or services to the account of such person in a bank or other financial institution regulated by state or federal authority.

NEW SECTION. Sec. 27. There is added to chapter 23, Laws of 1961 and to chapter 51.16 RCW a new section to read as follows:

(1) Any action, other than in cases of fraud, to collect any delinquent premium, assessment, contribution, penalty, or other sum due to the department from any employer subject to this title shall be brought within three years of the date any such sum became due.

(2) Any claim by an employer for adjustment, recomputation, or alteration of any premium, assessment, contribution, penalty, or other sum thereto collected or claimed by the department shall be deemed waived if not made in writing to the supervisor of industrial insurance within three years of the date any such sum became due.

NEW SECTION. Sec. 28. The following acts or parts of acts are each repealed:

- (1) Section 51.40.010, chapter 23, Laws of 1961 and RCW 51.40.010;
- (2) Section 51.40.020, chapter 23, Laws of 1961, section 1, chapter 36, Laws of 1965, section 2, chapter 80, Laws of 1965 ex. sess. and RCW 51.40.020;
- (3) Section 51.40.030, chapter 23, Laws of 1961 and RCW 51.40.030;

(4) Section 51.40.040, chapter 23, Laws of 1961, section 29, chapter 106, Laws of 1973 and RCW 51.40.040;

(5) Section 51.40.050, chapter 23, Laws of 1961 and RCW 51.40.050;

(6) Section 51.40.060, chapter 23, Laws of 1961 and RCW 51.40.060; and

(7) Section 51.40.070, chapter 23, Laws of 1961 and RCW 51.40.070.

NEW SECTION. Sec. 29. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 30. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977.

Passed the House June 21, 1977.

Passed the Senate June 19, 1977.

Approved by the Governor June 30, 1977.

Filed in Office of Secretary of State June 30, 1977.

CHAPTER 324

[Substitute House Bill No. 1009]

B&O, SALES, AND USE TAXES—TEMPORARY INCREASE EXTENSION

AN ACT Relating to revenue and taxation; amending section 3, chapter 130, Laws of 1975-'76 2nd ex. sess. and RCW 82.04.2901; amending section 82.08.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 130, Laws of 1975-'76 2nd ex. sess. and RCW 82.08.020; amending section 82.12.020, chapter 15, Laws of 1961 as last amended by section 2, chapter 130, Laws of 1975-'76 2nd ex. sess. and RCW 82.12.020; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 3, chapter 130, Laws of 1975-'76 2nd ex. sess. and RCW 82.04.2901 are each amended to read as follows:

From and after the first day of June, 1976, until the thirtieth day of June, ((1977)) 1979, there is levied and shall be collected from every person for the act or privilege of engaging in business activities, as a part of the tax imposed by the provisions of RCW 82.04.220 through 82.04.290, inclusive, an additional tax in the amount of six percent of the tax payable under the provisions of RCW 82.04.220 through 82.04.290, inclusive. To facilitate collection of this additional tax, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed.

Sec. 2. Section 82.08.020, chapter 15, Laws of 1961 as last amended by section 1, chapter 130, Laws of 1975-'76 2nd ex. sess. and RCW 82.08.020 are each amended to read as follows:

There is levied and there shall be collected a tax on each retail sale in this state equal to four and one-half percent of the selling price: PROVIDED, That from and after the first day of June, 1976, until the thirtieth day of June, ((1977)) 1979, such tax shall be levied and collected in an amount equal to four and six-tenths