

A traffic infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of traffic infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community service, or educational or informational sessions.

(4) If a case involving the commission of a traffic infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2).

NEW SECTION. Sec. 17. If any provision of this 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. Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of this 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 February 28, 1980.

Passed the Senate February 27, 1980.

Approved by the Governor March 12, 1980.

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## CHAPTER 129

[Substitute Senate Bill No. 3169]

### WORKERS' COMPENSATION—BENEFITS COMMENCEMENT— ALTERNATIVE MEDICAL, REHABILITATION, AND REEMPLOYMENT SERVICES—LEGISLATIVE STUDY—EMPLOYERS' GROUP INSURANCE

AN ACT Relating to industrial insurance; amending section 51.32.090, chapter 23, Laws of 1961 as last amended by section 47, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.090; and amending section 16, chapter 289, Laws of 1971 ex. sess. as amended by section 24, chapter 350, Laws of 1977 ex. sess. and RCW 51.16.035; and creating new sections.

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

Section 1. Section 51.32.090, chapter 23, Laws of 1961 as last amended by section 47, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.090 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable unless the loss of earning power shall exceed five percent.

(4) Whenever an employer requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. If the worker is released by his or her physician for said work, and the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

Once the worker returns to work under the terms of this subsection, he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or

her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018.

NEW SECTION. Sec. 2. The department shall develop a comprehensive plan including alternatives for medical, rehabilitation, and reemployment services to be presented to the appropriate committees of the legislature no later than October 1, 1980. Such plan and alternatives shall include, but not be limited to, the following:

- (1) A statement of purpose;
- (2) Specific definitions of medical, rehabilitation, and reemployment services to be provided by the state and/or employers;
- (3) A description of administrative organization, staffing, and responsibilities;
- (4) Criteria and content of individual worker rehabilitation plans;
- (5) Specific timetables for claims review and for development of rehabilitation plans based on category and type of injury;
- (6) An appeals procedure for disputes regarding rehabilitation plans;
- (7) Legislative recommendations to improve medical, rehabilitation, and reemployment services, with specific attention given to employer and employee incentives, second injury fund, and alternative methods of providing compensation for wage loss, loss of earning power, and functional disability.

NEW SECTION. Sec. 3. (1) There is hereby created the joint committee on workers' compensation to conduct a comprehensive examination of the present workers' compensation program in the state. The committee shall be bipartisan in nature and shall be composed of four senators appointed by the majority leader of the senate and four representatives appointed by the speakers of the house. The committee may appoint up to seven nonlegislators representing various interested parties to serve as ex-officio, nonvoting members.

(2) In conducting its study, the committee shall consider, but not be limited to, the following areas:

- (a) Definition, adequacy, and methods of determining benefits;
- (b) Medical, rehabilitation, and reemployment procedures and services;
- (c) Administrative organization and claims management;

- (d) Rate-making and methods of financing;
  - (e) Coverage of professional athletes and the classifications and rates established for professional sports teams;
  - (f) Audit and appeals procedures;
  - (g) Safety standards; and
  - (h) Occupational disease.
- (3) The committee shall hold meetings and hearings at the times and places it designates to accomplish the purposes of this section. It shall make use of existing legislative facilities and the staff of the house and senate. The committee shall have authority to contract for expert services and opinions relevant to its study.
- (4) The committee shall report its initial findings and recommendations to the legislature no later than January 1, 1981. A final report shall be submitted to the legislature no later than January 1, 1983.
- (5) The committee shall cease to exist on July 1, 1983, unless extended by law for an additional fixed period of time.

Sec. 4. Section 16, chapter 289, Laws of 1971 ex. sess. as amended by section 24, chapter 350, Laws of 1977 ex. sess. and RCW 56.16.035[51.16.035] are each amended to read as follows:

The department shall classify all occupations or industries in accordance with their degree of hazard and fix therefor basic rates of premium which shall be the lowest necessary to maintain actuarial solvency of the accident and medical aid funds in accordance with recognized insurance principles. The department shall formulate and adopt rules and regulations governing the method of premium calculation and collection and providing for a rating system consistent with recognized principles of workers' compensation insurance which shall be designed to stimulate and encourage accident prevention and to facilitate collection. The department may annually, or at such other times as it deems necessary to maintain solvency of the funds, readjust rates in accordance with the rating system to become effective on such dates as the department may designate.

The department may insure the workers' compensation obligations of employers as a group if the following conditions are met:

- (1) All the employers in the group are members of an organization that has been in existence for at least two years;
- (2) The organization was formed for a purpose other than that of obtaining workers' compensation coverage;
- (3) The occupations or industries of the employers in the organization are substantially similar, taking into consideration the nature of the services being performed by workers of such employers;
- (4) The employers in the group constitute at least fifty percent of the total employers in such organization; and

(5) The formation and operation of the group program in the organization will substantially improve accident prevention and claim management for the employers in the group.

In providing an employer group plan under this section, the department may consider an employer group as a single employing entity for purposes of dividends or premium discounts.

Passed the Senate February 29, 1980.

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CHAPTER 130

[Senate Bill No. 3244]

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' RETIREMENT SYSTEM—ELECTIVE MEMBERSHIP

AN ACT Relating to public employment; and adding a new section to chapter 41.26 RCW.

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

NEW SECTION. Section 1. There is added to chapter 41.26 RCW a new section to read as follows:

(1) Notwithstanding any provision of law to the contrary, any law enforcement officer or fire fighter who is not an active member of the retirement system under RCW 41.26.420 through 41.26.550 may become a member under RCW 41.26.420 through 41.26.550 by irrevocable election. For those persons employed as a law enforcement officer or fire fighter on the effective date of this act, the election shall be made on or before December 31, 1981. In the case of an individual not employed as a law enforcement officer or fire fighter on the effective date of this act, the election shall be made within one year from the date of reemployment in that capacity or by December 31, 1981, whichever is later. At the time the election is made, the individual must be employed by an employer, as defined in RCW 41.26.030(2)(b).

(2) If the election is made under subsection (1) of this section, the member shall not acquire any further rights or benefits in any other non-federal public retirement system in this state during any period of employment as a law enforcement officer or fire fighter.

(3) An individual who is or has been a member of the retirement system, except an individual who is or has been a member under RCW 41.26.420 through 41.26.550, may not elect to become a member under this section unless the individual has been denied membership or acquisition of service credit due solely to failure to successfully meet the minimum medical and health standards provided by RCW 41.26.045 when required to do so.