

CHAPTER 199

[Senate Bill No. 4891]

MOTOR VEHICLE DEALERS—ESTABLISHED PLACE OF BUSINESS

AN ACT Relating to motor vehicle dealers; and adding a new section to chapter 46.70 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.70 RCW to read as follows:

The director may by rule waive any requirements pertaining to a vehicle dealer's established place of business if such waiver both serves the purposes of this chapter and is necessary due to unique circumstances such as a location divided by a public street or a highly specialized type of business.

Passed the Senate March 9, 1986.

Passed the House March 7, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

CHAPTER 200

[Engrossed Senate Bill No. 4927]

INDUSTRIAL INSURANCE—MEDICAL, DENTAL, VOCATIONAL, AND OTHER HEALTH SERVICES—REGULATORY AND INSPECTION PROGRAMS

AN ACT Relating to medical aid; amending RCW 51.04.030, 51.04.040, 51.52.050, and 51.52.060; adding new sections to chapter 51.36 RCW; adding new sections to chapter 51.48 RCW; adding a new section to chapter 51.08 RCW; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.36 RCW to read as follows:

The legislature finds and declares it to be in the public interest of the residents of the state of Washington that a proper regulatory and inspection program be instituted in connection with the provision of medical, dental, vocational, and other health services to industrially injured workers pursuant to Title 51 RCW. In order to effectively accomplish such purpose and to assure that the industrially injured worker receives such services as are paid for by the state of Washington, the acceptance by the industrially injured worker of such services, and the request by a provider of services for reimbursement for providing such services, shall authorize the director of the department of labor and industries or the director's authorized representative to inspect and audit all records in connection with the provision of such services.

**NEW SECTION.** Sec. 2. A new section is added to chapter 51.36 RCW to read as follows:

The director of the department of labor and industries or the director's authorized representative shall have the authority to:

(1) Conduct audits and investigations of providers of medical, dental, vocational, and other health services furnished to industrially injured workers pursuant to Title 51 RCW. In the conduct of such audits or investigations, the director or the director's authorized representatives may examine all records, or portions thereof, including patient records, for which services were rendered by a health services provider and reimbursed by the department, notwithstanding the provisions of any other statute which may make or purport to make such records privileged or confidential: **PROVIDED**, That no original patient records shall be removed from the premises of the health services provider, and that the disclosure of any records or information obtained under authority of this section by the department of labor and industries is prohibited and constitutes a violation of RCW 42.22.040, unless such disclosure is directly connected to the official duties of the department: **AND PROVIDED FURTHER**, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationships between the provider and the patient: **AND PROVIDED FURTHER**, That the director or the director's authorized representative shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation, or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW; and

(3) Terminate or suspend eligibility to participate as a provider of services furnished to industrially injured workers pursuant to Title 51 RCW.

**NEW SECTION.** Sec. 3. A new section is added to chapter 51.48 RCW to read as follows:

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an industrially injured recipient of health services, that, without intent to violate this chapter, obtains payments under Title 51 RCW to which such person or entity is not entitled, shall be liable for: (1) Any excess payments received; and (2) interest on the amount of excess payments at the rate of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state.

**NEW SECTION.** Sec. 4. A new section is added to chapter 51.48 RCW to read as follows:

(1) No person, firm, corporation, partnership, association, agency, institution, or other legal entity, but not including an industrially injured recipient of health service, shall, on behalf of himself or others, obtain or

attempt to obtain payments under this chapter in a greater amount than that to which entitled by means of:

(a) A wilful false statement;

(b) Wilful misrepresentation, or by concealment of any material facts;

or

(c) Other fraudulent scheme or device, including, but not limited to:

(i) Billing for services, drugs, supplies, or equipment that were not furnished, of lower quality, or a substitution or misrepresentation of items billed; or

(ii) Repeated billing for purportedly covered items, which were not in fact so covered.

(2) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity knowingly violating any of the provisions of subsection (1) of this section shall be liable for repayment of any excess payments received, plus interest on the amount of the excess benefits or payments at the rate of one percent each month for the period from the date upon which payment was made to the date upon which repayment is made to the state. Such person or other entity shall further, in addition to any other penalties provided by law, be subject to civil penalties. The director of the department of labor and industries may assess civil penalties in an amount not to exceed the greater of one thousand dollars or three times the amount of such excess benefits or payments: **PROVIDED**, That these civil penalties shall not apply to any acts or omissions occurring prior to the effective date of this act.

(3) A criminal action need not be brought against a person, firm, corporation, partnership, association, agency, institution, or other legal entity for that person or entity to be civilly liable under this section.

(4) Civil penalties shall be deposited in the general fund upon their receipt.

NEW SECTION. Sec. 5. A new section is added to chapter 51.48 RCW to read as follows:

Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that:

(1) Knowingly makes or causes to be made any false statement or representation of a material fact in any application for any payment under this title; or

(2) At any time knowingly makes or causes to be made any false statement or representation of a material fact for use in determining rights to such payment, or knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact in connection with such application or payment; or

(3) Having knowledge of the occurrence of any event affecting (a) the initial or continued right to any payment, or (b) the initial or continued right to any such payment of any other individual in whose behalf he or she

has applied for or is receiving such payment, conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount or quantity than is due or when no such payment is authorized;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

NEW SECTION. Sec. 6. A new section is added to chapter 51.48 RCW to read as follows:

(1) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind:

(a) In return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under this chapter; or

(b) In return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(2) Any person, firm, corporation, partnership, association, agency, institution, or other legal entity, that offers or pays any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind to any person to induce such person:

(a) To refer an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made, in whole or in part, under this chapter; or

(b) To purchase, lease, order, or arrange for or recommend purchasing, leasing, or ordering any goods, facility, service, or item for which payment may be made in whole or in part under this chapter;

shall be guilty of a class C felony: PROVIDED, That the fine, if imposed, shall not be in an amount more than twenty-five thousand dollars, except as authorized by RCW 9A.20.030.

(3) Subsections (1) and (2) of this section shall not apply to:

(a) A discount or other reduction in price obtained by a provider of services or other entity under this chapter if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this chapter; and

(b) Any amount paid by an employer to an employee (who has a bona fide employment relationship with such employer) for employment in the provision of covered items or services.

(4) Subsections (1) and (2) of this section, if applicable to the conduct involved, shall supersede the criminal provisions of chapter 19.68 RCW, but shall not preclude administrative proceedings authorized by chapter 19.68 RCW.

**NEW SECTION.** Sec. 7. A new section is added to chapter 51.48 RCW to read as follows:

The director of the department of labor and industries may by rule require that any application, statement, or form filled out by any health services provider under this title shall contain or be verified by a written statement that it is made under the penalties of perjury and such declaration shall be in lieu of any oath otherwise required, and each such paper shall in such event so state. The making or subscribing of any such papers or forms containing any false or misleading information may be prosecuted and punished under chapter 9A.72 RCW.

Sec. 8. Section 1, chapter 14, Laws of 1980 and RCW 51.04.030 are each amended to read as follows:

The director shall, through the division of industrial insurance, supervise the providing of prompt and efficient care and treatment, including care provided by physicians' assistants governed by the provisions of chapters 18.57A and 18.71A RCW, acting under a supervising physician to workers injured during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and promulgate and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment: PROVIDED, That, the department may recommend to an injured worker particular health care services and providers where specialized treatment is indicated or where cost effective payment levels or rates are obtained by the department: and PROVIDED FURTHER, That the department may enter into volume based contracts for services including, but not limited to, durable medical equipment so long as statewide access to quality service is maintained for injured workers.

The director shall make and, from time to time, change as may be, and promulgate a fee bill of the maximum charges to be made by any physician, surgeon, hospital, druggist, physicians' assistants as defined in chapters 18.57A and 18.71A RCW, acting under a supervising physician or other agency or person rendering services to injured workers. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee bill, and no contract providing for greater fees shall be valid as to the excess.

The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured workers, shall

approve and pay those which conform to the promulgated rules, regulations, and practices of the director and may reject any bill or item thereof incurred in violation of the principles laid down in this section or the rules and regulations promulgated under it.

Sec. 9. Section 51.04.040, chapter 23, Laws of 1961 as amended by section 1, chapter 323, Laws of 1977 ex. sess. and RCW 51.04.040 are each amended to read as follows:

The director shall have power to issue subpoenas to enforce 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, any billing submitted 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. 10. Section 51.52.050, chapter 23, Laws of 1961 as last amended by section 9, chapter 315, Laws of 1985 and RCW 51.52.050 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award shall become final within sixty days from the date the order is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia: PROVIDED, That a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker, shall state that such order or decision shall become final within twenty days from the date the order or decision is communicated to the parties unless a written request for reconsideration is filed with the department of labor and industries, Olympia, or an appeal is filed with the board of industrial insurance appeals, Olympia.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the worker, beneficiary, employer, or other person aggrieved thereby may request reconsideration of the department, or may appeal to the board. In an appeal before the board, the appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Sec. 11. Section 51.52.060, chapter 23, Laws of 1961 as last amended by section 76, chapter 350, Laws of 1977 ex. sess. and RCW 51.52.060 are each amended to read as follows:

Any worker, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or award was communicated to such person, a notice of appeal to the board: PROVIDED, That a health services provider or other person aggrieved by a department order or decision making demand, whether with or without penalty, for repayment of sums paid to a provider of medical, dental, vocational, or other health services rendered to an industrially injured worker must, before he or she appeals to the courts, file with the board and the director, by mail or personally, within twenty days from the day on which such copy of such order or decision was communicated to the health services provider upon whom the department order or decision was served, a notice of appeal to the board. Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties thereto of the receipt thereof and shall forward a copy of said notice of appeal to such other interested parties. Within twenty days of the receipt of such notice of the board, the worker or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken: **PROVIDED, That nothing contained in this section shall be deemed to change, alter or modify the practice or procedure of the department for the payment of awards pending appeal: AND PROVIDED, That failure to file notice of appeal with both the board and the department shall not be ground for denying the appeal if the notice of appeal is filed with either the board or the department: AND PROVIDED, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: PROVIDED, FURTHER, That in the event the department shall direct the submission of further evidence or the investigation of any further fact, as above provided, the department shall render a final order, decision, or award within ninety days from the date such further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days: PROVIDED, FURTHER, That the department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may modify, reverse or change any order, decision, or award, or may hold any such order, decision, or award in abeyance for a period of ninety days which time period**

may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal, and the board shall thereupon deny the appeal, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department.

**NEW SECTION.** Sec. 12. A new section is added to chapter 51.08 RCW to read as follows:

"Health services provider" or "provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of services related to the treatment of an industrially injured worker.

**NEW SECTION.** Sec. 13. 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 Senate March 10, 1986.

Passed the House March 1, 1986.

Approved by the Governor April 1, 1986.

Filed in Office of Secretary of State April 1, 1986.

## CHAPTER 201

[Substitute Senate Bill No. 5026]

### FARMERS—HAZARDOUS WASTES—DEPARTMENT OF ECOLOGY AND ADVISORY GROUP TO STUDY

AN ACT Relating to hazardous waste; creating a new section; and making an appropriation.

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

**NEW SECTION.** Sec. 1. Currently farmers have no appropriate economically feasible means of legally disposing of small amounts of hazardous waste, including pesticides with uses canceled or restricted after purchase.

The department of ecology shall prepare and submit a report to the appropriate standing committees of the legislature no later than January 1, 1987, which describes and assesses the nature of this problem in the state. The department, in preparing this report, shall consult with an advisory group including representatives from the department of agriculture, a public interest group, an environmental organization, and a public health organization and three representatives from agriculture organizations. The report shall include the following information:

(1) A survey of the amounts and kinds of hazardous wastes to be disposed of by farmers. The department of ecology shall work with the department of agriculture and state-licensed pesticide consultants and dealers,