



2019 FINAL REPORT
HOUSE LABOR & WORKPLACE STANDARDS
COMMITTEE
2019 Regular Session

Prepared by: Committee Staff

Office of Program Research

House of Representatives

State of Washington

Date: May 31, 2019

2019 FINAL REPORT

House Labor and Workplace Standards Committee

BILLS ENACTED

Bill Number	Prime Sponsor	Summary
<i>BUILDING AND CONSTRUCTION</i>		
1486	Mosbrucker	Inspection of Factory Built Housing and Commercial Structures - Allows the Department of Labor and Industries to delegate its inspection duties related to factory built housing and commercial structures to a qualified inspection agency.
1594	Chandler	Telecommunication Installations - Changes the regulation of certain work on electric utility poles and electric utility-owned equipment between a meter base and meter.
5471	King	Elevators - Changes the 30-day period for a temporary elevator mechanic license to one year. Exempts removal of residential stairway chair or platform lifts from elevator licensing requirements. Allows modification of the Elevator Safety Advisory Committee membership.
5795	Zeiger	Contractor Bonds and Related Issues - Allows the Director of the Department of Labor and Industries (Department) to increase a contractor's bond amount by up to three times the normal amount if the applicant has had in the past five years one, rather than three, judgments involving a single-family dwelling. Requires the Department to convene a work group to consider additional consumer safeguards including bond amounts, additional criteria for contractors, changes to options for consumer recovery, and other matters.
<i>COLLECTIVE BARGAINING</i>		
1575	Stonier	Union Dues and Fees and Representation through Cross-check - Provides that public employers and public employee organizations are not liable in claims or causes of action for deducting union fees that were permitted by law and deducted before the <i>Janus v. AFSCME</i> decision. Removes union security provisions from various collective bargaining statutes. Establishes procedures for employees to provide electronic or recorded voice authorization for dues deductions. Authorizes a cross-check process to determine union representation for certain public employees, upon a showing of interest of 50 percent rather than 70 percent of the employees in the bargaining unit.
5021	Van De Wege	Interest Arbitration for Department of Corrections Employees - Grants interest arbitration to employees of the Department of Corrections.
5022	Keiser	Interest Arbitration for Higher Education Uniformed Personnel - Provides interest arbitration for duly sworn police officers employed by the public four-year institutions of higher education. Partial veto: vetoes the section exempting an arbitration award from being certified as financially feasible before the Governor submits a request for funds to the Legislature.

5199	Keiser	Interest Arbitration for Regional Correctional Employees and Certain Juvenile Detention Facilities - Grants correctional employees of regional jails and certain juvenile detention facilities interest arbitration.
5297	Hunt	Assistant Attorneys General - Grants Assistant Attorneys General (AAGs) collective bargaining rights. Requires the Governor and the exclusive bargaining representative to negotiate one master collective bargaining agreement for all AAGs in the bargaining unit.
<i>EMPLOYMENT – DISCRIMINATION</i>		
1696	Dolan	Wage and Salary Information - Prohibits an employer from seeking the wage or salary history of an applicant or requiring that the wage or salary history meet certain criteria, with some exceptions. Requires an employer to provide the minimum wage or salary for the position to an applicant upon request after the employer has offered the position to the applicant. Requires that upon request of an employee offered an internal transfer, the employer must provide the wage scale or salary range for the new position.
1930	Doglio	Reasonable Accommodations for the Expression of Breast Milk – Requires employers to provide reasonable break time for an employee to express breast milk for two years after the child's birth and provide a private location, other than a bathroom, to express breast milk. Provides that if the business location does not have a space for the employee to express breast milk, the employer must work with the employee to identify a convenient location and work schedule to accommodate their needs.
<i>EMPLOYMENT – GENERAL</i>		
1450	Stanford	Noncompetition Covenants - Makes noncompetition covenants unenforceable unless an employee earns more than \$100,000 per year. Creates a presumption that a noncompetition covenant longer than 18 months is unreasonable and unenforceable. Establishes other provisions relating to competition and creates remedies.
1533	Mosbrucker	Domestic Violence Information - Requires the Employment Security Department to create a poster regarding domestic violence and requires employers to post the poster.
5258	Keiser	Isolated Workers - Requires hotels, motels, retail, security guard entities, and property service contractors who employ isolated workers in certain occupations to adopt a sexual harassment policy; provide mandatory training regarding sexual assault, harassment, and discrimination; and provide a panic button to those isolated workers. Requires property service contractors to submit specified information to the Department of Labor and Industries.
5438	McCoy	H-2A Program - Creates the Office of Agricultural and Seasonal Workforce Services within the Employment Security Department (ESD) to, among other tasks, process and adjudicate foreign labor applications and complaints, and conduct field checks, training, and outreach. Requires the Commissioner of the ESD to create an advisory committee to review issues related to the H-2A program.

5439	Keiser	Confidentiality of Employment Security Department Records and Data - Creates an agency privacy officer within the Employment Security Department, and requires development of a personal information minimalization plan. Requires a signed release for disclosure of information to a third party acting on behalf of an individual or employer. Increases the penalty for misuse or unauthorized disclosure of private information.
5831	Keiser	Deceased Employees - Raises the amount of indebtedness payable by a private employee to the survivors of a deceased employee.
<i>LEAVE</i>		
1399	Robinson	Paid Family and Medical Leave - Establishes provisions regarding disclosure of private information for the purpose of paid family and medical leave. Allows employers to waive certain requirements and to supplement benefits. Addresses voluntary plan appeals, waiting periods, and other matters.
5233	Keiser	Paid Sick Leave for Construction Workers - Exempts construction workers covered by a collective bargaining agreement (CBA) from paid sick leave requirements if the CBA meets certain criteria, including providing sick leave benefits equivalent to those under state law.
<i>SAFETY AND HEALTH</i>		
1647	Chapman	Rest Periods for Pilots - Requires marine pilots to have mandatory rest periods of at least 10 hours after an assignment, and a mandatory rest period that mitigates fatigue after three consecutive night assignments.
1756	Orwall	Adult Entertainers - Requires adult entertainers to take training relating to the rights and responsibilities of entertainers, reporting of injuries, and other matters to receive or renew an adult entertainer license issued by a local government on or after July 1, 2020. Requires adult entertainment establishments to provide panic buttons in certain locations and to ban customers for three years if an accusation of violence or harassment against the customer is supported by a statement made under penalty of perjury or other evidence. Requires the Department of Labor and Industries to establish an adult entertainer advisory committee.
1817	Sells	High-hazard Facilities - Requires owners and operators of facilities engaged in petroleum refining or petrochemical manufacturing to require their contractors and subcontractors to use a skilled and trained workforce to perform onsite work. Defines a "skilled and trained workforce" as a workforce where all the workers are registered apprentices or skilled journeypersons and the workforce meets certain apprenticeship graduation requirements. Requires workers to complete advanced safety training for workers at high-hazard facilities by January 1, 2022.

1931	Leavitt	Health Care Setting Violence Prevention - Modifies health care setting workplace violence prevention plan requirements by requiring an annual review of incidents and development and implementation of the plan every three years. Requires health care settings to provide violence prevention training to volunteers and contracted security personnel in addition to employees. Adds ambulatory surgical facilities to the health care settings subject to the plan requirements.
5175	Braun	Firefighters - Requires the Department of Labor and Industries to establish best practices to improve firefighter safety and health outcomes. Provides for a potential industrial insurance premium discount for implementation of the best practices. Authorizes limited funding for equipment purchases to follow the best practices.
5550	Saldaña	Pesticide Application Safety Work Group - Establishes the Pesticide Application Safety Committee (Committee) to explore how state agencies collect and track data, and consider the feasibility and requirements of developing a shared database. Creates an advisory work group to collect information and make recommendations to the Committee.
5627	Brown	Hanford Site - Creates the Healthy Energy Work Group in order to develop the Healthy Energy Workers Board to address chemical exposure to tank farm vapors. Requires a report to the Legislature from the group by December 31, 2019.
<i>UNEMPLOYMENT INSURANCE</i>		
5398	Keiser	Electrical Apprentices - Exempts from the job search requirements persons complying with an electrical apprenticeship program that has a recognized job referral system.
<i>WAGE AND HOUR</i>		
1155	Riccelli	Meal and Rest Breaks and Overtime for Health Care Employees - Provides that certain hospital employees must be allowed to take uninterrupted meal and rest periods, except under limited circumstances. Provides that if a rest break is interrupted before 10 minutes is complete, under certain conditions, the employee must be given an additional 10 minutes uninterrupted break. Amends the prohibition on mandatory overtime in health care facilities to include additional employees and prohibit the employer from using prescheduled on-call time to address certain staffing circumstances. Requires that an employee accepting overtime who works more than 12 consecutive hours must be provided the option of at least eight consecutive hours of uninterrupted time off. Provides that certain hospitals are not subject to the new provisions until July 1, 2021, and certain health care employees who are not nurses are not subject to the new overtime provisions until July 1, 2020.
1706	Frame	Subminimum Wages for Persons with Disabilities - Prohibits state agencies from employing persons with disabilities under subminimum wage certificates, beginning July 1, 2020.

1743	Ormsby	Prevailing Wage for Residential Construction - Provides that prevailing wage rates for residential construction must be established by wage and hour surveys, unless survey information is insufficient. Provides for interim rates pending the establishment of rates based on surveys.
5035	Saldaña	Prevailing Wage Enforcement - Raises penalties for failure to pay prevailing wages from the greater of \$1,000 or 20 percent of the total wage violation to the greater of \$5,000 or 50 percent of the total wage violation, and adds interest. Allows a contractor against whom the Department of Labor and Industries has begun an investigation, but not issued a notice of violation, to avoid further sanctions by paying the unpaid wages, interest, and a lesser penalty (limited to once within a 5-year period). Defines "unpaid wages," extends the time period for filing prevailing wage complaints, and establishes a timeframe for investigation of unpaid wages.
5566	Braun	Prevailing Wage Fees - Reduces the \$40 prevailing wage intent and affidavit fee to \$20 for the 2019-20 biennium. Directs the Department of Labor and Industries to set the fee in subsequent biennia to generate revenue as near as practicable to the amount appropriated to administer the prevailing wage program, subject to a \$40 cap.
<i>WORKERS' COMPENSATION</i>		
1490	Ormsby	Occupational Disease Presumption for Hanford Site Workers - Makes the occupational disease presumption for Hanford site workers with regard to cancer applicable to those workers who were not given a qualifying medical examination because an exam was not required.
1909	Graham	Confidentiality of Industrial Insurance Claim Information - Provides that if an employer or employer's authorized representative reveals information in an injured worker's claim file regarding a mental health condition or treatment to any person other than an authorized representative, the employer is subject to a civil penalty of \$1,000 for each occurrence. Requires the Department of Labor and Industries to ensure that employers and workers are notified of their rights and responsibilities regarding claim files.
1913	Doglio	Occupational Disease Presumptions - Makes the occupational disease presumptions for firefighters applicable to certain emergency medical technicians and public employee fire investigators and adds additional cancers to the cancer occupational disease presumption. Creates an occupational disease presumption for heart problems and infectious diseases for law enforcement officers. Requires the Director of the Department of Labor and Industries to create an advisory committee on occupational disease presumptions, made up of specified scientists.
5474	Keiser	Self-Insurer Service of Orders - Allows a self-insured employer to serve an order made by the Department of Labor and Industries closing a claim, which communication triggers the 60-day appeal deadline.

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OTHER BILLS PASSED OUT OF COMMITTEE*

Bill Number	Prime Sponsor	Summary	Status
<i>BUILDING AND CONSTRUCTION</i>			
1752	Orwall	Contractor Bonds and Related Issues - Allows the Director of the Department of Labor and Industries (Department) to increase a contractor's bond amount by up to three times the normal amount if the applicant has had in the past five years one, rather than three judgments involving a single-family dwelling. Requires the Department to convene a work group to consider additional consumer safeguards including bond amounts, additional criteria for contractors, changes to options for consumer recovery, and other matters. <i>Identical bill enacted (SB 5795).</i>	H Rules R
1487	Chapman	Elevators - Changes the 30-day period for a temporary elevator mechanic license to one year. Exempts removal of residential stairway chair or platform lifts from elevator licensing requirements. Allows modification of the Elevator Safety Advisory Committee membership. <i>Identical bill enacted (SSB 5471).</i>	H 2 nd Reading
<i>COLLECTIVE BARGAINING</i>			
1042	Blake	Interest Arbitration for Department of Corrections Employees - Provides interest arbitration for employees of the Department of Corrections. <i>Similar bill enacted (SB 5021).</i>	H Rules R
1043	Goodman	Interest Arbitration for Higher Education Uniformed Personnel - Provides interest arbitration for duly sworn police officers employed by the public four-year institutions of higher education. <i>Similar bill enacted (SB 5022).</i>	H Rules R
1299	Dolan	Assistant Attorneys General - Grants Assistant Attorneys General collective bargaining rights under the Personnel System Reform Act. <i>Similar bill enacted (SSB 5297).</i>	H Approps

*The summary describes the bill at the highest status attained in the session. The status indicated is prior to the transmission of bills to the original house and adjournment Sine Die.

1333	Valdez	Personal Assistants to Judges – Grants personal assistants to district court and superior court judges and court commissioners collective bargaining rights.	H Approps
1452	Riccelli	Legislative Employees - Authorizes collective bargaining for permanent employees of the legislative branch of state government.	H Approps
2017	Frame	Administrative Law Judges - Grants administrative law judges collective bargaining rights.	H Approps
2037	Sells	Sergeants of the Department of Fish and Wildlife - Grants interest arbitration to sergeants of the Department of Fish and Wildlife if the exclusive bargaining representative for the sergeants chooses to bargain agency-specific issues separate from coalition bargaining. Limits the agency-specific issues the sergeants may bargain to those within the scope of state employee bargaining.	H 2 nd Reading
EMPLOYMENT - GENERAL			
1400	Sells	Confidentiality of Employment Security Department Information - Creates an agency privacy officer within the Employment Security Department, and requires development of a personal information minimalization plan. Requires a signed release for disclosure of information to a third party acting on behalf of an individual or employer. Increases the penalty for misuse or unauthorized disclosure of private information. <i>Similar bill enacted (ESB 5439).</i>	H Rules R
1515	Riccelli	Employee Classification - Creates a work group on employee classification to examine questions regarding worker classifications as employees, independent contractors, or exempt from coverage under various laws.	H Rules R
1556	Mead	Hospitality Grant Program - Creates the Opportunities for Employment in Hospitality grant program to increase the number of workers from targeted populations employed in the hospitality industry.	H Approps
1841	Riccelli	Train Crew Size Requirements - Establishes minimum crew size requirements for freight and passenger trains and trains carrying hazardous materials. Creates exceptions to the requirements and increases monetary penalties for violations.	S 2 nd Reading
1965	Hansen	Qui Tam Actions - Authorizes a qui tam action for enforcement of various employment laws under which a relator on behalf of an agency may pursue relief the agency may pursue. Specifies the division of any penalties awarded between the agency and the relator.	H 2 nd Reading

5478	Lias	Noncompetition Covenants - Makes noncompetition covenants unenforceable unless an employee earns more than \$100,000 per year. Creates a presumption that a noncompetition covenant longer than 18 months is unreasonable and unenforceable. Establishes other provisions relating to competition and creates remedies. <i>Similar bill enacted (ESHB 1450).</i>	H 2 nd Reading
LEAVE			
1843	Chapman	Railroad Employee Leave - Prohibits railroad carriers from disciplining employees due to layoff for illness or injury. Requires Class I railroad carriers and certain Class II and III railroad carriers to establish a fatigue layoff program. Establishes unpaid family and medical leave provisions for railroad carriers.	H 2 nd Reading
SAFETY AND HEALTH			
1056	Mosbrucker	Domestic Violence - Role of Workplace - Creates a Task Force on domestic violence and workplace resources to identify the role of the workplace in helping to curb domestic violence.	S Labor & Commerce
1725	Dent	Pesticide Application Safety Work Group - Establishes the Pesticide Application Safety Committee (Committee) to explore how state agencies collect and track data and consider the feasibility and requirements of developing a shared database. Creates an advisory work group to collect information and make recommendations to the Committee. <i>Similar bill enacted (SSB 5550).</i>	S Labor & Commerce
UNEMPLOYMENT INSURANCE			
1445	Gregerson	Good Cause Quit and Suitable Work/Caregiving for Child or Vulnerable Adult - Adds unemployment insurance good cause quit provisions relating to inaccessibility of care for a child or vulnerable adult. Adds, as factors in determining suitable work, the claimant's typical workweek hours and the availability of caregiving for a child or vulnerable adult. Provides that benefits are charged only to a separating employer when the benefits result from a good cause quit due to an alteration in the claimant's work shifts making care for a child or vulnerable adult inaccessible.	H Rules R

WAGE AND HOUR			
1072	Sells	Prevailing Wage Enforcement - Raises penalties for failure to pay prevailing wages from the greater of \$1,000 or 20 percent of the total wage violation to the greater of \$5,000 or 50 percent of the total wage violation, and adds interest. Allows a contractor against whom the Department of Labor and Industries has begun an investigation, but not issued a notice of violation, to avoid further sanctions by paying the unpaid wages, interest, and a lesser penalty (limited to once within a 5-year period). Defines "unpaid wages," extends the time period for filing prevailing wage complaints, and establishes a time frame for investigation of unpaid wages. <i>Similar bill enacted (ESSB 5035).</i>	H 2 nd Reading
1345	Frame	Correctional Officer Overtime - Requires the Employment Security Department to obtain data from counties regarding mandatory overtime for correctional officers.	H Rules R
1361	Ormsby	Prevailing Wage Fees - Reduces the \$40 prevailing wage intent and affidavit fee to \$20 for the 2019-20 biennium. Directs the Department of Labor and Industries to set the fee in subsequent biennia to generate revenue as near as practicable to the amount appropriated to administer the prevailing wage program, subject to a \$40 cap. <i>Identical bill enacted (SB 5566).</i>	H Approps
1395	Pellicciotti	Direct Contractor Liability - Allows the Department of Labor and Industries to enforce against a direct contractor unpaid wages owed by a subcontractor. Allows a third party owed fringe or other benefit payments or contributions by a subcontractor to bring a civil action against a direct contractor. Allows an interested party to bring a civil action against a direct contractor or subcontractor for wages owed, including against the direct contractor for wages owed by a subcontractor, after 30 days' notice to the direct contractor and subcontractor.	H 2 nd Reading
1491	Macri	Scheduling - Requires food service, hospitality, and retail establishments with more than 250 employees worldwide, but exempting employers in rural counties, to provide employees 14 days' notice of work schedules, compensate employees for schedule changes, grant employee requests for schedule changes under certain conditions, and meet other requirements. Requires employers to give access to additional hours to existing employees before hiring externally. Provides for administrative remedies and a civil cause of action.	H Approps

1514	Gregerson	Wage Liens - Creates a statutory wage lien for claims on unpaid wages. Creates procedures for establishing, foreclosing, extinguishing, and prioritizing wage liens.	H Rules R
1842	Gregerson	Yardmaster Hours of Service - Requires railroad carriers to observe rules limiting the hours of service for individuals performing yardmaster duties. Prohibits railroad carriers from communicating with an individual who performs yardmaster duties in a way that disrupts the individual's off-duty rest.	H Rules R
<i>WORKERS' COMPENSATION</i>			
1682	Sells	Self-Insurer Service of Orders - Allows a self-insured employer to serve an order made by the Department of Labor and Industries closing a claim, which communication triggers the 60-day appeal deadline. <i>Identical bill enacted (SSB 5474).</i>	H Rules R
5765	Kuderer	Freight Brokers - Provides that a freight broker or forwarder may not be an employer of certain drivers for purposes of industrial insurance.	H Rules R

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SUMMARIES OF BILLS REFERRED TO COMMITTEE

Bill Number	Prime Sponsor	Summary
<i>COLLECTIVE BARGAINING</i>		
1217	Blake	Officers of the Department of Fish and Wildlife - Authorizes officers of Department of Fish and Wildlife (DFW) to bargain under the Public Employees' Collective Bargaining Act, and grants those officers interest arbitration. Removes the DFW officers from coalition bargaining of exclusive bargaining representatives of fewer than 500 employees under the Personnel System Reform Act.
1845	Stokesbary	Union Dues and Fees - Modifies the requirements for employer deductions of union dues and representation fees for various collective bargaining statutes. Provides that employers may deduct dues or fees directly from employees, when the employee directly authorizes the deduction on a specified form. Removes union security provisions. Prohibits the use of public funds to resolve private contract disputes between employees and employee representative organizations regarding dues or fees.
<i>EMPLOYMENT - GENERAL</i>		
1398	Dolan	H-2A Program - Creates an Office of H-2A Compliance and Farm Labor within the Employment Security Department to conduct field checks and visits trainings, and outreach to employers using the H-2A program. Requires a fee, to be set by rule, for each H-2A application an employer submits and for each H-2A worker an employer requests. Creates an H-2A temporary agricultural program advisory committee. <i>Similar bill enacted (E2SHB 5438).</i>
1601	Stonier	Employee Classification, Workers' Boards, and Portable Benefits - Creates the Employee Fair Classification Act, which creates new provisions prohibiting the misclassification of employees as independent contractors and creates remedies, including civil penalties and damages. Provides for the creation of workers' boards, and for the workers' boards to set minimum pay rates and other labor standards for workers in certain industries when specific conditions are met. Establishes procedures for creating portable benefits for workers in certain industries. Specifies certain rights for workers and prohibits retaliation. Requires contributing agents to provide data and reports about workers. Requires the Department of Labor and Industries to investigate complaints, impose sanctions, conduct surveys, and fulfill other duties.

1728	Frame	Isolated Workers - Requires certain employers that employ custodians, security guards, hotel or motel housekeepers, or other isolated workers to adopt a sexual harassment policy, provide mandatory sexual harassment training, provide a list of resources to employees, and provide a panic button to each isolated worker. Requires the Department of Labor and Industries to establish procedures for licensing property service contractors. <i>Similar bill enacted (SB 5258).</i>
1757	Mosbrucker	Franchisors as Employers - Provides that a franchisor is not the employer of a franchisee or of the franchisee's employees under workers' compensation, unemployment compensation, minimum wage, and other employment laws.
2107	Blake	Searches of Employee Vehicles - Prohibits, with some exceptions, employer searches of locked, privately owned employee vehicles in the employer's parking lots or garages. Provides for investigations of violations and potential civil penalties by the Department of Labor and Industries.
5295	Keiser	Labor Neutrality for Contractors - Requires certain Department of Social and Health Services contractors to: (1) certify compliance with federal, state, and local law; and (2) commit to ensuring the uninterrupted delivery of services.
<i>SAFETY AND HEALTH</i>		
2133	Steele	Explosive Licenses - Increases the frequency and verification requirements for explosive license renewals. Expands the types of situations that disqualify a person for a license or that cause a license to be revoked or suspended. Provides for review of certain licensing denials by the Board of Industrial Insurance Appeals. Specifies the means and parameters of relief from other licensing denials and suspensions.
<i>UNEMPLOYMENT INSURANCE</i>		
1619	Young	Community Service Requirement - Requires individuals receiving unemployment benefits to perform a certain amount of hours of community service. Provides rulemaking authority to the Employment Security Department to implement the new requirement.
1438	Chapman	Electrical Apprentices - Exempts from the job search requirements persons complying with an electrical apprenticeship program with a recognized referral system. <i>Identical bill enacted (SB 5398).</i>
2118	Shea	Misconduct - Expands what is considered misconduct for purposes of unemployment insurance to include conduct for which an employer is required by law to discharge an employee.
5716	Keiser	Federal Employees not Receiving Wages - Expands the definition of unemployed to include federal employees not receiving wages due to the federal government's failure to appropriate funding, and applies the expansion retroactively to December 22, 2018.

WAGE AND HOUR		
1492	Sells	Wage Loss Calculation - Changes the methods to calculate wages for injured workers with industrial insurance claims. Entitles an injured worker to receive 70 percent of the worker's wages for injuries beginning on or after September 1, 2019. Provides that wages generally include overtime, shift differentials, and paid leave; and the value of board, housing, utilities, fuel, and the employer's payment for health care benefits.
2171	Santos	Vacation Leave Payout - Requires payment of unused vested vacation time or paid time off, where provided by the employer and with some exceptions, upon termination of employment.
WORKER'S COMPENSATION		
2025	Corry	Choice and Competition Task Force - Creates the Joint Legislative Task Force on Industrial Insurance Choice and Competition, with membership that includes business, insurers, and labor, to review the impacts of allowing a private industrial insurance option. Requires a report to the Legislature with findings and recommendations by December 1, 2020.
1961	Gregerson	Freight Brokers - Provides that a freight broker or forwarder is not an employer of certain carriers or drivers for purposes of industrial insurance.