

NEW SECTION. Sec. 8. 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 and shall be effective for assessments made in 1980 and years thereafter.

Passed the Senate March 11, 1980.

Passed the House March 4, 1980.

Approved by the Governor April 1, 1980.

Filed in Office of Secretary of State April 1, 1980.

CHAPTER 156

[Substitute Senate Bill No. 3457]

VICTIMS OF CRIME COMPENSATION—INSURANCE PROCEEDS— APPROPRIATION

AN ACT Relating to state government; amending section 2, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 302, Laws of 1977 ex. sess. and RCW 7.68-.020; amending section 5, chapter 122, Laws of 1973 1st ex. sess. as amended by section 3, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.050; amending section 13, chapter 122, Laws of 1973 1st ex. sess. as amended by section 8, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.130; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. Sections 2 through 4 of this 1980 act are required to clarify the legislative intent concerning the phrase "public or private insurance" as used in section 13, chapter 122, Laws of 1973 1st ex. sess. and RCW 7.68.130 which was the subject of *Wagner v. Labor & Indus.*, 92 Wn.2d 463 (1979). It has continuously been the legislative intent to include as "public insurance" both state and federal statutory social welfare and insurance schemes which make available to victims or their beneficiaries recompense as a result of the claimed injury or death, such as but not limited to old age and survivors insurance, medicare, medicaid, benefits under the veterans' benefits act, longshore and harbor workers act, industrial insurance act, law enforcement officers' and fire fighters' retirement system act, Washington public employees' retirement system act, teachers' retirement system act, and firemen's relief and pension act. "Private insurance" continuously has been intended to include sources of recompense available by contract, such as but not limited to policies insuring a victim's life or disability.

Sec. 2. Section 2, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 302, Laws of 1977 ex. sess. and RCW 7.68-.020 are each amended to read as follows:

The following words and phrases as used in this chapter ((~~shall~~)) have the ((~~following~~)) meanings set forth in this section unless the context otherwise requires((:)).

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state: PROVIDED, That the operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless the injury or death was intentionally inflicted or the operation thereof was part of the commission of another criminal act as defined in this section: PROVIDED FURTHER: (a) That neither an acquittal in a criminal prosecution nor the absence of any such prosecution (~~(shall be)~~) is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding; (b) that evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter (~~(shall be)~~) is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; (c) that acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct (~~(shall be)~~) are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" (~~(shall be)~~) is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child((²);)₂" "accredited school((²);)₂" "dependent((²);)₂" "beneficiary((²);)₂" "average monthly wage((²);)₂" "director((²);)₂" "injury((²);)₂" "invalid((²);)₂" "permanent partial disability((²);)₂" and "permanent total disability" (~~(shall)~~) have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

Sec. 3. Section 5, chapter 122, Laws of 1973 1st ex. sess. as amended by section 3, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.050 are each amended to read as follows:

(1) No right of action at law for damages incurred as a consequence of a criminal act shall be lost as a consequence of being entitled to benefits under the provisions of this chapter. (~~In the event any person entitled to~~

~~benefits under this chapter additionally seeks a remedy for damages incurred as a consequence of a criminal act, then and in that event the department shall be subrogated to the rights of such person and have a lien upon any recovery so made to the extent of the benefits paid or payable by the department to or on behalf of such person under this chapter.)~~ The victim or his beneficiary may elect to seek damages from the person or persons liable for the claimed injury or death, and such victim or beneficiary is entitled to the full compensation and benefits provided by this chapter regardless of any election or recovery made pursuant to this section.

(2) For the purposes of this section, the rights, privileges, responsibilities, duties, limitations, and procedures contained in RCW 51.24.050 through 51.24.100 as now existing or hereafter amended apply.

(3) If the recovery involved is against the state, the lien of the department ((~~shall~~)) includes the interest on the benefits paid by the department to or on behalf of such person under this chapter computed at the rate of eight percent per annum from the date of payment.

(4) The 1980 amendments to this section apply only to injuries which occur on or after the effective date of this 1980 act.

Sec. 4. Section 13, chapter 122, Laws of 1973 1st ex. sess. as amended by section 8, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.130 are each amended to read as follows:

Benefits payable pursuant to this chapter shall be reduced by the amount of any other public or private insurance(~~(, industrial insurance, or medical health or disability benefits))~~) available. Payment by the department under this chapter shall be secondary to such other insurance ((~~or~~)) benefits, notwithstanding the provision of any contract or coverage to the contrary: PROVIDED, That in the case of private life insurance proceeds, the first forty thousand dollars of such proceeds shall not be considered for purposes of any such reduction in benefits.

NEW SECTION. Sec. 5. There is appropriated to the department of labor and industries for the fiscal biennium ending June 30, 1981, for the operation of the department, the following amounts, or so much thereof as may be necessary, from the designated funds:

General Fund Appropriation	\$ 2,003,000
Accident Fund Appropriation	\$ 42,000
Medical Aid Fund Appropriation	\$ 41,000
Electrical License Fund Appropriation	\$ 681,000
Total Appropriation	\$ 2,767,000

The appropriations contained in this section shall be subject to the following conditions and limitations:

(1) Of the total appropriation, an amount necessary to implement the provisions of section 4, chapter ... (SSB 3169), Laws of 1980 shall be used for such implementation.

(2) The department shall report to the appropriate committees of the legislature on the status of the employer group rating structure, as provided in chapter ... (SSB 3169), Laws of 1980, no later than October 1, 1980.

NEW SECTION. Sec. 6. 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 13, 1980.

Passed the House March 7, 1980.

Approved by the Governor April 1, 1980.

Filed in Office of Secretary of State April 1, 1980.

CHAPTER 157

[Engrossed Substitute Senate Bill No. 3551]

ALCOHOL FUELS—TAX EXEMPTIONS

AN ACT Relating to alcohol fuels; adding a new section to chapter 82.01 RCW; adding a new section to chapter 82.29A RCW; adding a new section to chapter 84.36 RCW; and amending section 13, chapter 196, Laws of 1979 ex. sess. and RCW 82.04.325.

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

NEW SECTION. Section 1. There is added to chapter 84.36 RCW a new section to read as follows:

(1) For the purposes of this section, "alcohol fuel" means any alcohol made from a product other than petroleum or natural gas, which is used alone or in combination with gasoline or other petroleum products for use as a fuel for motor vehicles, farm implements and machines or implements of husbandry.

(2) All buildings, machinery, equipment, and other personal property which is used primarily for the manufacturing of alcohol fuel, the land upon which such property is located, and land that is reasonably necessary in the manufacturing of alcohol fuel, but not land necessary for growing of crops, which together comprise a new alcohol manufacturing facility or an addition to an existing alcohol manufacturing facility, are exempt from property taxation for the six assessment years following the date on which the facility or the addition to the existing facility becomes operational.

For alcohol manufacturing facilities which produce alcohol for use as alcohol fuel and alcohol used for other purposes, the amount of the property tax exemption shall be based upon an annually determined percentage of the total gallons of alcohol produced that is sold or used as alcohol fuel.

(3) Claims for exemptions authorized by this section shall be filed with the county assessor on forms prescribed by the department of revenue and furnished by the assessor. Once filed, the exemption is valid for six years and shall not be renewed. The assessor shall verify and approve such claims