

SENATE FILE NO. SF0082

Workers' compensation amendments.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to workers' compensation; prohibiting
2 premium rate manipulation; prescribing civil and criminal
3 penalties for premium rate manipulation; amending coverage
4 of resident aliens as specified; authorizing the workers'
5 safety and compensation division to define "intoxicated or
6 under the influence of a controlled substance" for purposes
7 of the exclusion from covered injury; prescribing the
8 experience premium rate upon transfer of a business as
9 specified; authorizing preapproval of hospitalizations,
10 surgeries and specific medical care as specified; providing
11 definitions; and providing for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 27-14-806 is created to read:

16

1 **27-14-806. Experience rating manipulation; penalties.**

2

3 (a) A person who knowingly, or with deliberate
4 ignorance or reckless disregard of the true facts or the
5 requirements of this act, violates or attempts to violate
6 the requirements of W.S. 27-14-207 or any other provision
7 of this act related to determining the assignment of a
8 premium rate, or who advises another to violate the
9 requirements of W.S. 27-14-207 or any other provision of
10 this act related to determining the assignment of a premium
11 rate, shall be subject to the following penalties:

12

13 (i) A person who is an employer shall be
14 assigned, for the rate year during which the noncompliance
15 or misrepresentation occurred and for the following three
16 (3) rate years, the highest base rate within the industry
17 classification assigned during that year under the
18 division's rate filing. If the person's business is
19 already at the highest rate for any year, or if the amount
20 of increase in the person's rate would be less than two
21 percent (2%) for that year, then a penalty rate of two
22 percent (2%) shall be imposed for that year. This penalty
23 may exceed the maximum assignable rate;

24

1 (ii) In addition to the penalty imposed pursuant
2 to paragraph (i) of this subsection, any violation or
3 attempted violation of W.S. 27-14-207 or any other
4 provision of this act related to determining the assignment
5 of a premium rate may be prosecuted as a felony punishable
6 by a fine of not more than fifty thousand dollars
7 (\$50,000.00), imprisonment for not more than five (5)
8 years, or both.

9

10 **Section 2.** W.S. 27-14-102(a)(vii)(intro), (xi)(B)(I)
11 and by creating a new paragraph (xxx), 27-14-207(b), (c)
12 and by creating new subsections (d) through (h) and
13 27-14-601 by creating a new subsection (o) are amended to
14 read:

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16 **27-14-102. Definitions.**

17

18 (a) As used in this act:

19

20 (vii) "Employee" means any person engaged in any
21 extrahazardous employment under any appointment, contract
22 of hire or apprenticeship, express or implied, oral or
23 written, and includes legally employed minors, ~~and~~ aliens
24 authorized to work by the United States department of

1 justice, ~~immigration and naturalization service~~ office of
2 citizenship and immigration services, and aliens whom the
3 employer reasonably believes, at the date of hire and the
4 date of injury based upon documentation in the employer's
5 possession, to be authorized to work by the United States
6 department of justice, office of citizenship and
7 immigration services. "Employee" does not include:

8

9 (xi) "Injury" means any harmful change in the
10 human organism other than normal aging and includes damage
11 to or loss of any artificial replacement and death, arising
12 out of and in the course of employment while at work in or
13 about the premises occupied, used or controlled by the
14 employer and incurred while at work in places where the
15 employer's business requires an employee's presence and
16 which subjects the employee to extrahazardous duties
17 incident to the business. "Injury" does not include:

18

19 (B) Injury caused by:

20

21 (I) The fact the employee is
22 intoxicated or under the influence of a controlled
23 substance, or both, except any prescribed drug taken as
24 directed by an authorized health care provider. The

1 division shall define "intoxicated" and "under the
2 influence of a controlled substance" for purposes of this
3 subparagraph in its rules and regulations; or

4
5 (xxx) For purposes of W.S. 27-14-207 and
6 27-14-806, "person" means as defined in W.S. 8-1-102.

7
8 **27-14-207. Employer registration required; person**
9 **acquiring trade of another employer; transfer of experience**
10 **and assignment of rates.**

11
12 (b) Except as provided in subsection (c) of this
13 section, ~~an employer~~ a person acquiring the trade,
14 organization, business or substantially all of the assets
15 of an employer subject to this act shall assume the
16 previous employer's account, experience rating and premium
17 rate as assigned by the division, provided the previous
18 employer is not participating in the premium deductible
19 program under W.S. 27-14-201(t). If the previous employer
20 is participating in the premium deductible program, the
21 acquiring ~~employer~~ person shall assume the previous
22 employer's account, experience rating and premium rate as
23 determined without premium deductible program eligibility.
24 The acquiring ~~employer~~ person shall ~~make contributions at~~

1 assume the premium rate which is in effect at the time of
2 the acquisition based on the existing account's
3 classification, experience rating and any surcharge which
4 may apply, as determined without premium deductible program
5 eligibility.

6
7 (c) ~~An employer~~ A person acquiring the trade,
8 organization, business or substantially all of the assets
9 of any employer subject to this act whose owners or
10 shareholders have not held an ownership interest in the
11 employer being acquired within one (1) year previous to the
12 date of acquisition shall assume the previous employer's
13 account number, experience rating and premium rate as
14 assigned by the division, provided the previous employer is
15 not participating in the premium deductible program under
16 W.S. 27-14-201(t). If the previous employer is
17 participating in the premium deductible program, the
18 acquiring ~~employer~~ person shall assume the previous
19 employer's account, experience rating and premium rate as
20 determined without premium deductible program eligibility.

21
22 (d) The transfer of some or all of an employer's
23 workforce to another person shall be considered a transfer
24 of trade or business when, as a result of the transfer, the

1 transferring employer no longer performs trade or business
2 with respect to the transferred workforce, and the trade or
3 business is performed by the person to whom the workforce
4 is transferred.

5
6 (e) If an employer transfers all or a portion of its
7 trade or business to another employer and, at the time of
8 the transfer, there is substantially common ownership,
9 management or control of the two (2) employers, then the
10 workers' compensation experience attributable to the
11 transferred trade or business shall be transferred to the
12 employer to whom the business is transferred. The rates of
13 both employers shall be recalculated and made effective the
14 first day of the calendar quarter immediately following the
15 date of the transfer of trade or business.

16
17 (f) If, following a transfer of experience under this
18 section, the department determines that a substantial
19 purpose of the transfer of the trade or business was to
20 obtain a reduced premium liability, then the accounts of
21 the employers involved shall be combined into a single
22 account.

23

1 (g) If a person is not an employer under this section
2 at the time the person acquires the trade or business of an
3 employer, the workers' compensation experience of the
4 acquired employer shall not be transferred to the person if
5 the department finds that the person acquired the trade or
6 business of the employer solely or primarily for the
7 purpose of obtaining a lower premium rate. Instead, the
8 person shall be assigned the applicable industry base rate
9 in effect at the time of the acquisition. In determining
10 whether the trade or business was acquired solely or
11 primarily for the purpose of obtaining a lower premium
12 rate, the department shall use objective factors which may
13 include the cost of acquiring the business, whether the
14 person continued the business enterprise of the acquired
15 business, how long the business enterprise was continued,
16 or whether a substantial number of new employees were hired
17 for performance of duties unrelated to the business
18 activity conducted prior to acquisition.

19

20 (h) The division by rule and regulation shall
21 establish procedures to identify the transfer or
22 acquisition of a business for purposes of this section and
23 W.S. 27-14-806.

24

1 **27-14-601. Payment or denial of claim by division;**
2 **notice; objections; review and settlement of claims; filing**
3 **fee; preauthorization of hospitalization or surgery.**

4
5 (o) The division pursuant to its rules and
6 regulations may issue a determination of preauthorization
7 for an injured worker's nonemergency hospitalization,
8 surgery or other specific medical care, subject to the
9 following:

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11 (i) The division's determination that the worker
12 suffered a compensable injury is final and not currently
13 subject to contested case or judicial review;

14
15 (ii) A claim for preapproval is filed by a
16 health care provider on behalf of the injured worker;

17
18 (iii) The division's determination pursuant to
19 this subsection is issued in accordance with the procedures
20 provided in subsection (k) of this section;

21
22 (iv) Following a final determination to
23 preauthorize, the necessity of the hospitalization, surgery
24 or specific medical care shall not be subject to further

1 review and providers' bills shall be reviewed only for
2 relatedness to the preauthorized care and reasonableness in
3 accord with the division's fee schedules.

4

5 **Section 3.** This act is effective July 1, 2005.

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7

(END)