



AN ACT REVISING WORKERS' COMPENSATION LAWS; PROVIDING FOR VOLUNTARY CERTIFICATION OF WORKERS' COMPENSATION CLAIMS EXAMINERS; REQUIRING A LETTER OF INTENT TO CREATE A NEW EXEMPTION UNDER THE WORKERS' COMPENSATION ACT; ESTABLISHING CRITERIA FOR CERTIFYING CLAIMS EXAMINERS; AMENDING SECTION 2-6-109, MCA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 39-71-105, MCA, states that it is public policy for the workers' compensation system to provide protections for employees that are at "reasonably constant rates" for employers; and

WHEREAS, over time the types of occupations, persons, and businesses that are exempt from the coverage requirements of the Workers' Compensation Act have continually expanded; and

WHEREAS, solvency of the workers' compensation system requires a broad base of coverage.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Letter of intent required to create new exemption. (1) A bill draft request to create and list an additional exemption under Title 39, chapter 71, must include a letter of intent not exceeding 1,000 words that addresses the criteria in subsection (2).

(2) The letter of intent must contain a good faith effort to provide the following:

(a) an estimate of the number of employees statewide who would become exempt from coverage under the Workers' Compensation Act;

(b) an estimate of the number of employers statewide who would no longer be required to provide workers' compensation coverage to the exempt workers;

(c) an analysis of which entity would become responsible for the costs of injury;

(d) an analysis of the change in potential liability to an employer if an exempt employee is injured;

(e) an estimate of the reduction in total state payroll for the occupation for which the exemption is being requested; and

(f) an explanation of the possible social costs of allowing the exemption.

(3) The legislative fiscal analyst shall provide to the bill draft requester an independent assessment of the letter of intent.

(4) The department of labor and industry shall provide an independent assessment of the letter of intent regarding information that is within the expertise of that department.

(5) For the purposes of this section, a letter of intent is a public record.

(6) A bill draft request submitted without this letter of intent may not be processed for introduction to the legislature.

Section 2. Voluntary certification program for claims examiners -- purpose -- rulemaking -- advisory committee -- continuing education. (1) Pursuant to the public policy stated in 39-71-105, accurate and prompt claims handling practices are necessary to provide appropriate service to injured workers, employers, and medical providers. In order to further that public policy, the purpose of this section is to authorize the department to establish a voluntary certification program for claims examiners. The department shall administer the voluntary certification program.

(2) The voluntary certification program is intended to improve the handling of workers' compensation claims by:

- (a) establishing minimum qualifications and procedures for certifying claims examiners;
- (b) requiring continuing education for certified claims examiners;
- (c) better educating certified claims examiners about changes in the law; and
- (d) providing standards for the qualifications of instructors, courses, and materials.

(3) The department shall adopt rules for the certification of workers' compensation claims examiners, providing for:

- (a) minimum qualifications;
- (b) examination;
- (c) 2-year certification and renewal;
- (d) continuing education requirements; and

(e) a waiver of the examination requirement for an individual requesting certification as a claims examiner within the first 12 months after the department has adopted the initial rules under this subsection (3). The waiver

is available only to an individual who has been actively engaged in the work of a claims examiner in this state, working on workers' compensation claims for 5 of the 7 years immediately preceding the individual's application for certification under this section.

(4) The department may appoint an advisory committee composed of injured workers, insurers, self-insured employers, third-party administrators, claims examiners, and members of the public to advise the department on setting standards for certification and continuing education.

(5) The department shall maintain:

- (a) a list of all certified claims examiners; and
- (b) the following records related to certified claims examiners:
 - (i) documentation of current and historical certifications;
 - (ii) beginning and ending dates of certifications; and
 - (iii) continuing education records.

(6) The training curriculum and continuing education used by insurers, self-insured employers, and third-party administrators for claims examiners must relate to the state workers' compensation system or to interactions among injured workers, medical providers, and employers. The training curriculum, course content, instructors, materials, instructional format, and the sponsoring organization must be approved by the department as qualifying for use in certification of claims examiners. The department may offer specialized training for continuing education purposes that is exempt from the approval requirements of this subsection.

(7) The department shall determine the number of credit hours to be awarded for completion of an approved training curriculum or department-approved specialized training. The department may accept continuing education credits approved by the insurance commissioner's office as provided in Title 33, chapter 17, the office of public instruction, or the state bar of Montana to satisfy the continuing education requirements for renewal of the claims examiner certification. The department, in its discretion, may accept continuing education credits from other accrediting sources.

(8) The department shall by rule adopt fees commensurate with the costs of administering the voluntary certification program. All fees collected by the department as provided in this section must be deposited in the workers' compensation administration fund provided for in 39-71-201. The department may charge a fee for the certification program, including but not limited to fees for:

- (a) initial certification, including examination;

- (b) certification renewal;
- (c) approval of training curricula, including continuing education courses, course content, instructors, materials, instructional format, and sponsoring organizations; and
- (d) specialized training offered by the department.

Section 3. Section 2-6-109, MCA, is amended to read:

"2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty. (1) Except as provided in subsections (3) through (9), in order to protect the privacy of those who deal with state and local government:

(a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and

(b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.

(2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state or a local government.

(3) This section does not prevent an individual from compiling a mailing list by examination of records that are otherwise open to public inspection.

(4) This section does not apply to the lists of:

(a) registered electors and the new voter lists provided for in 13-2-115, ~~to lists of;~~

(b) the names of employees governed by Title 39, chapter 31, ~~to lists of;~~

(c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127, ~~or to lists of;~~

(d) persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 29, 31, 34, ~~35~~ through 36, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, and 73, and 76; and Title 50, chapters 39, 72, 74, and 76; or

(e) persons certified as claims examiners under [section 2].

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access by Montana law enforcement agencies.

(7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.

(8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization.

(9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

(10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."

Section 4. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 8, and the provisions of Title 2, chapter 8, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 39, chapter 71, part 3, and the provisions of Title 39, chapter 71, part 3, apply to [section 2].

Section 5. Effective date. [This act] is effective July 1, 2009.

- END -

I hereby certify that the within bill,
HB 0283, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 283

INTRODUCED BY D. HIMMELBERGER

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