
SENATE BILL NO. 168—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF BUSINESS AND
INDUSTRY, INDUSTRIAL RELATIONS DIVISION)

FEBRUARY 19, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing industrial insurance.
(BDR 53-466)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; revising certain provisions governing the disclosure of information by the Division of Industrial Relations of the Department of Business and Industry relating to an uninsured employer or proof of industrial insurance coverage; requiring a medical facility to submit a claim for compensation within a certain period after providing treatment for an injured employee; authorizing a party who is aggrieved by certain determinations of the Division relating to the Uninsured Employers' Claim Account to appeal those determinations to an appeals officer under certain circumstances; requiring a person who wishes to contest a decision of the Administrator of the Division to impose an administrative fine or benefit penalty to file a notice of an appeal with an appeals officer within a certain period; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:



* S B 1 6 8 *

1 **Section 1.** Chapter 616A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *“Medical facility” means a hospital, clinic or other facility that*
4 *provides treatment to an employee who:*

- 5 1. *Is injured by an accident; or*
- 6 2. *Contracts an occupational disease,*
7 *arising out of and in the course of his employment.*

8 **Sec. 2.** NRS 616A.025 is hereby amended to read as follows:
9 616A.025 As used in chapters 616A to 616D, inclusive, of
10 NRS, unless the context otherwise requires, the words and terms
11 defined in NRS 616A.030 to 616A.360, inclusive, **and section 1 of**
12 **this act** have the meanings ascribed to them in those sections.

13 **Sec. 3.** NRS 616B.012 is hereby amended to read as follows:
14 616B.012 1. Except as otherwise provided in this section and
15 in NRS 616B.015, 616B.021 and 616C.205, information obtained
16 from any insurer, employer or employee is confidential and may not
17 be disclosed or be open to public inspection in any manner which
18 would reveal the person’s identity.

19 2. Any claimant or his legal representative is entitled to
20 information from the records of the insurer, to the extent necessary
21 for the proper presentation of a claim in any proceeding under
22 chapters 616A to 616D, inclusive, or chapter 617 of NRS.

23 3. The Division and Administrator are entitled to information
24 from the records of the insurer which is necessary for the
25 performance of their duties. The Administrator may, by regulation,
26 prescribe the manner in which otherwise confidential information
27 may be made available to:

28 (a) Any agency of this or any other state charged with the
29 administration or enforcement of laws relating to industrial
30 insurance, unemployment compensation, public assistance or labor
31 law and industrial relations;

32 (b) Any state or local agency for the enforcement of child
33 support;

34 (c) The Internal Revenue Service of the Department of the
35 Treasury;

36 (d) The Department of Taxation; and

37 (e) The State Contractors’ Board in the performance of its duties
38 to enforce the provisions of chapter 624 of NRS.

39 Information obtained in connection with the administration of a
40 program of industrial insurance may be made available to persons or
41 agencies for purposes appropriate to the operation of a program of
42 industrial insurance.

43 4. Upon written request made by a public officer of a local
44 government, an insurer shall furnish from its records the name,
45 address and place of employment of any person listed in its records.



1 The request must set forth the social security number of the person
2 about whom the request is made and contain a statement signed by
3 proper authority of the local government certifying that the request
4 is made to allow the proper authority to enforce a law to recover a
5 debt or obligation owed to the local government. The information
6 obtained by the local government is confidential and may not be
7 used or disclosed for any purpose other than the collection of a debt
8 or obligation owed to ~~that~~ *the* local government. The insurer may
9 charge a reasonable fee for the cost of providing the requested
10 information.

11 5. To further a current criminal investigation, the chief
12 executive officer of any law enforcement agency of this state may
13 submit to the Administrator a written request for the name, address
14 and place of employment of any person listed in the records of an
15 insurer. The request must set forth the social security number of the
16 person about whom the request is made and contain a statement
17 signed by the chief executive officer certifying that the request is
18 made to further a criminal investigation currently being conducted
19 by the agency. Upon receipt of a request, the Administrator shall
20 instruct the insurer to furnish the information requested. Upon
21 receipt of such an instruction, the insurer shall furnish the
22 information requested. The insurer may charge a reasonable fee to
23 cover any related administrative expenses.

24 6. Upon request by the Department of Taxation, the
25 Administrator shall provide:

26 (a) Lists containing the names and addresses of employers; and
27 (b) Other information concerning employers collected and
28 maintained by the Administrator or the Division to carry out the
29 purposes of chapters 616A to 616D, inclusive, or chapter 617 of
30 NRS,
31 to the Department for its use in verifying returns for the business
32 tax. The Administrator may charge a reasonable fee to cover any
33 related administrative expenses.

34 7. Any person who, in violation of this section, discloses
35 information obtained from files of claimants or policyholders or
36 obtains a list of claimants or policyholders under chapters 616A to
37 616D, inclusive, or chapter 617 of NRS and uses or permits the use
38 of the list for any political purposes, is guilty of a gross
39 misdemeanor.

40 8. All letters, reports or communications of any kind, oral or
41 written, from the insurer, or any of its agents, representatives or
42 employees are privileged and must not be the subject matter or basis
43 for any lawsuit if the letter, report or communication is written, sent,
44 delivered or prepared pursuant to the requirements of chapters 616A
45 to 616D, inclusive, or chapter 617 of NRS.



1 *9. The provisions of this section do not prohibit the*
2 *Administrator or Division from disclosing any information*
3 *relating to an uninsured employer or proof of industrial*
4 *insurance.*

5 **Sec. 4.** NRS 616C.040 is hereby amended to read as follows:
6 616C.040 1. A treating physician , ~~or~~ chiropractor *or*
7 *medical facility* shall, within 3 working days after ~~he first treats~~
8 *first providing treatment to* an injured employee for a particular
9 injury, complete and file *a claim for compensation* with the
10 employer of the injured employee and the employer's insurer . ~~[-a~~
11 ~~claim for compensation.]~~ If the employer is a self-insured employer,
12 the treating physician , ~~or~~ chiropractor *or medical facility* shall file
13 the claim for compensation with the employer's third-party
14 administrator. If the physician , ~~or~~ chiropractor *or medical facility*
15 files the claim for compensation by electronic transmission, ~~he~~ *the*
16 *physician, chiropractor or medical facility* shall, upon request, mail
17 to the insurer or third-party administrator the form that contains the
18 original signatures of the injured employee and the physician ~~or~~
19 ~~chiropractor.]~~ , *chiropractor or authorized person at the medical*
20 *facility.* The form must be mailed within 7 days after receiving such
21 a request.

22 2. A claim for compensation required by subsection 1 must be
23 *submitted* on a form prescribed by the Administrator.

24 3. If a claim for compensation is accompanied by a certificate
25 of disability, the certificate must include a description of any
26 limitation or restrictions on the injured employee's ability to work.

27 4. Each physician, chiropractor and medical facility that treats
28 injured employees, each insurer, third-party administrator and
29 employer, and the Division shall maintain at their offices a sufficient
30 supply of the forms prescribed by the Administrator for filing a
31 claim for compensation.

32 5. The Administrator shall impose an administrative fine of not
33 more than \$1,000 on a physician , ~~or~~ chiropractor *or medical*
34 *facility* for each violation of subsection 1.

35 **Sec. 5.** NRS 616C.045 is hereby amended to read as follows:
36 616C.045 1. Except as otherwise provided in NRS 616B.727,
37 within 6 working days after the receipt of a claim for compensation
38 from a physician ~~or chiropractor.]~~ , *chiropractor or medical*
39 *facility*, an employer shall complete and file with his insurer or
40 third-party administrator an employer's report of industrial injury or
41 occupational disease.

42 2. The report must:

43 (a) Be *submitted* on a form prescribed by the Administrator;

44 (b) Be signed by the employer or his designee;



1 (c) Contain specific answers to all questions required by the
2 regulations of the Administrator; and
3 (d) Be accompanied by a statement of the wages of the
4 employee if the claim for compensation received from the treating
5 physician , ~~or~~ chiropractor *or medical facility* indicates that the
6 injured employee is expected to be off work for 5 days or more.
7 3. An employer who files the report required by subsection 1
8 by electronic transmission shall, upon request, mail to the insurer or
9 third-party administrator the form that contains the original
10 signature of the employer or his designee. The form must be mailed
11 within 7 days after receiving such a request.
12 4. The Administrator shall impose an administrative fine of not
13 more than \$1,000 on an employer for each violation of this section.
14 **Sec. 6.** NRS 616C.220 is hereby amended to read as follows:
15 616C.220 1. The Division shall designate one:
16 (a) Third-party administrator who has a valid certificate issued
17 by the Commissioner pursuant to NRS 683A.085; or
18 (b) Insurer, other than a self-insured employer or association of
19 self-insured public or private employers,
20 to administer claims against the Uninsured Employers' Claim
21 Account. The designation must be made pursuant to reasonable
22 competitive bidding procedures established by the Administrator.
23 2. Except as otherwise provided in this subsection, an
24 employee may receive compensation from the Uninsured
25 Employers' Claim Account if:
26 (a) He was hired in this state or he is regularly employed in this
27 state;
28 (b) He suffers an accident or injury which arises out of and in
29 the course of his employment:
30 (1) In this state; or
31 (2) While on temporary assignment outside the State for ~~fa~~
32 ~~period of~~ not more than 12 months;
33 (c) He files a claim for compensation with the Division; and
34 (d) He makes an irrevocable assignment to the Division of a
35 right to be subrogated to the rights of the injured employee pursuant
36 to NRS 616C.215.
37 An employee who suffers an accident or injury while on temporary
38 assignment outside the State is not eligible to receive compensation
39 from the Uninsured Employers' Claim Account unless he has been
40 denied workers' compensation in the state in which the accident or
41 injury occurred.
42 3. If the Division receives a claim pursuant to subsection 2, the
43 Division shall immediately notify the employer of the claim.
44 4. For the purposes of this section, the employer has the burden
45 of proving that he provided mandatory industrial insurance coverage



1 for the employee or that he was not required to maintain industrial
2 insurance for the employee.

3 5. Any employer who has failed to provide mandatory
4 coverage required by the provisions of chapters 616A to 616D,
5 inclusive, of NRS is liable for all payments made on his behalf,
6 including any benefits, administrative costs or attorney's fees paid
7 from the Uninsured Employers' Claim Account or incurred by the
8 Division.

9 6. The Division:

10 (a) May recover from the employer the payments made by the
11 Division that are described in subsection 5 and any accrued interest
12 by bringing a civil action in district court.

13 (b) In any civil action brought against the employer, is not
14 required to prove that negligent conduct by the employer was the
15 cause of the employee's injury.

16 (c) May enter into a contract with any person to assist in the
17 collection of any liability of an uninsured employer.

18 (d) In lieu of a civil action, may enter into an agreement or
19 settlement regarding the collection of any liability of an uninsured
20 employer.

21 7. The Division shall:

22 (a) Determine whether the employer was insured within 30 days
23 after receiving notice of the claim from the employee.

24 (b) Assign the claim to the third-party administrator or insurer
25 designated pursuant to subsection 1 for administration and payment
26 of compensation.

27 Upon determining whether the claim is accepted or denied, the
28 designated third-party administrator or insurer shall notify the
29 injured employee, the named employer and the Division of its
30 determination.

31 8. Upon demonstration of the:

32 (a) Costs incurred by the designated third-party administrator or
33 insurer to administer the claim or pay compensation to the injured
34 employee; or

35 (b) Amount that the designated third-party administrator or
36 insurer will pay for administrative expenses or compensation to the
37 injured employee and that such amounts are justified by the
38 circumstances of the claim,
39 the Division shall authorize payment from the Uninsured
40 Employers' Claim Account.

41 9. Any party aggrieved by a determination ~~regarding the~~
42 ~~administration of an assigned claim or a determination~~ made by the
43 Division ~~for by the designated third party administrator or insurer~~
44 regarding *the assignment of* any claim made pursuant to this section
45 may appeal that determination *by filing a notice of appeal with an*



1 *appeals officer* within ~~60~~ 30 days after the determination is
2 rendered. *The provisions of NRS 616C.345 to 616C.385, inclusive,*
3 *apply to an appeal filed pursuant to this subsection.*

4 10. *Any party aggrieved by a determination to accept or to*
5 *deny any claim made pursuant to this section or by a*
6 *determination to pay or to deny the payment of compensation*
7 *regarding any claim made pursuant to this section may appeal that*
8 *determination, within 70 days after the determination is rendered,*
9 to the Hearings Division of the Department of Administration in the
10 manner provided by NRS 616C.305 and 616C.315 . ~~to 616C.385,~~
11 ~~inclusive.~~

12 ~~10.~~ 11. All insurers shall bear a proportionate amount of a
13 claim made pursuant to chapters 616A to 616D, inclusive, of NRS,
14 and are entitled to a proportionate amount of any collection made
15 pursuant to this section as an offset against future liabilities.

16 ~~11.~~ 12. An uninsured employer is liable for the interest on
17 any amount paid on his claims from the Uninsured Employers'
18 Claim Account. The interest must be calculated at a rate equal to the
19 prime rate at the largest bank in Nevada, as ascertained by the
20 Commissioner of Financial Institutions, on January 1 or July 1, as
21 the case may be, immediately preceding the date of the claim, plus 3
22 percent, compounded monthly, from the date the claim is paid from
23 the Account until payment is received by the Division from the
24 employer.

25 ~~12.~~ 13. Attorney's fees recoverable by the Division pursuant
26 to this section must be:

27 (a) If a private attorney is retained by the Division, paid at the
28 usual and customary rate for that attorney.

29 (b) If the attorney is an employee of the Division, paid at the
30 rate established by regulations adopted by the Division.

31 Any money collected must be deposited to the Uninsured
32 Employers' Claim Account.

33 ~~13.~~ 14. In addition to any other liabilities provided for in this
34 section, the Administrator may impose an administrative fine of not
35 more than \$10,000 against an employer if the employer fails to
36 provide mandatory coverage required by the provisions of chapters
37 616A to 616D, inclusive, of NRS.

38 **Sec. 7.** NRS 616C.340 is hereby amended to read as follows:

39 616C.340 1. The Governor shall appoint one or more appeals
40 officers to conduct hearings ~~in contested claims for compensation~~
41 ~~pursuant to NRS 616C.360.~~ *and appeals as required pursuant to*
42 *chapters 616A to 617, inclusive, of NRS.* Each appeals officer shall
43 hold office for 2 years ~~from~~ *after* the date of his appointment and
44 until his successor is appointed and has qualified. Each appeals



1 officer is entitled to receive an annual salary in an amount provided
2 by law and is in the unclassified service of the State.

3 2. Each appeals officer must be an attorney who has been
4 licensed to practice law before all the courts of this state for at least
5 2 years. Except as otherwise provided in NRS 7.065, an appeals
6 officer shall not engage in the private practice of law.

7 3. If an appeals officer determines that he has a personal
8 interest or a conflict of interest, directly or indirectly, in any case
9 which is before him, he shall disqualify himself from hearing the
10 case.

11 4. The Governor may appoint one or more special appeals
12 officers to conduct hearings ~~in contested claims for compensation~~
13 ~~pursuant to NRS 616C.360.]~~ *and appeals as required pursuant to*
14 *chapters 616A to 617, inclusive, of NRS.* The Governor shall not
15 appoint an attorney who represents persons in actions related to
16 claims for compensation to serve as a special appeals officer.

17 5. A special appeals officer appointed pursuant to subsection 4
18 is vested with the same powers as a regular appeals officer. A
19 special appeals officer may hear any case in which a regular appeals
20 officer has a conflict, or any case assigned to him by the Senior
21 Appeals Officer to assist with a backlog of cases. A special appeals
22 officer is entitled to be paid at an hourly rate, as determined by the
23 Department of Administration.

24 6. The decision of an appeals officer is the final and binding
25 administrative determination of a claim for compensation under
26 chapters 616A to 616D, inclusive, or chapter 617 of NRS, and the
27 whole record consists of all evidence taken at the hearing before the
28 appeals officer and any findings of fact and conclusions of law
29 based thereon.

30 **Sec. 8.** NRS 616C.345 is hereby amended to read as follows:

31 616C.345 1. Any party aggrieved by a decision of the
32 hearing officer relating to a claim for compensation may appeal
33 from the decision by filing a notice of appeal with an appeals officer
34 within 30 days after the date of the decision.

35 2. If a dispute is required to be submitted to a procedure for
36 resolving complaints pursuant to NRS 616C.305 and:

37 (a) A final determination was rendered pursuant to that
38 procedure; or

39 (b) The dispute was not resolved pursuant to that procedure
40 within 14 days after it was submitted,

41 any party to the dispute may file a notice of appeal within 70 days
42 after the date on which the final determination was mailed to the
43 employee, or his dependent, or the unanswered request for
44 resolution was submitted. Failure to render a written determination



1 within 30 days after receipt of such a request shall be deemed by the
2 appeals officer to be a denial of the request.

3 3. Except as otherwise provided in NRS 616C.380, the filing of
4 a notice of appeal does not automatically stay the enforcement of the
5 decision of a hearing officer or a determination rendered pursuant to
6 NRS 616C.305. The appeals officer may order a stay, when
7 appropriate, upon the application of a party. If such an application is
8 submitted, the decision is automatically stayed until a determination
9 is made concerning the application. A determination on the
10 application must be made within 30 days after the filing of
11 the application. If a stay is not granted by the officer after reviewing
12 the application, the decision must be complied with within 10 days
13 after the date of the refusal to grant a stay.

14 4. Except as otherwise provided in this subsection, ~~the appeals~~
15 ~~officer shall,~~ within 10 days after receiving a notice of appeal
16 pursuant to this section *or NRS 616C.220 or 617.401, or within 10*
17 *days after receiving a notice of* a contested claim pursuant to
18 subsection 5 of NRS 616C.315, *the appeals officer shall* schedule a
19 hearing on the merits of the appeal or contested claim for a date and
20 time within 90 days after his receipt of the notice and give notice by
21 mail or by personal service to all parties to the matter and their
22 attorneys or agents at least 30 days before the date and time
23 scheduled. A request to schedule the hearing for a date and time
24 which is:

25 (a) Within 60 days after the receipt of the notice of appeal or
26 contested claim; or

27 (b) More than 90 days after the receipt of the notice or
28 claim,
29 may be submitted to the appeals officer only if all parties to the
30 appeal or contested claim agree to the request.

31 5. An appeal or contested claim may be continued upon written
32 stipulation of all parties, or upon good cause shown.

33 6. Failure to file a notice of appeal within the period specified
34 in subsection 1 or 2 may be excused if the party aggrieved shows by
35 a preponderance of the evidence that he did not receive the notice of
36 the determination and the forms necessary to appeal the
37 determination. The claimant, employer or insurer shall notify the
38 hearing officer of a change of address.

39 **Sec. 9.** NRS 616D.140 is hereby amended to read as follows:

40 616D.140 1. If a person wishes to contest a decision of the
41 Administrator to impose an administrative fine or benefit penalty
42 pursuant to this chapter or chapter 616A, 616B, 616C or 617 of
43 NRS, he must file a notice of appeal with ~~the Division within 10~~
44 *an appeals officer within 30* days after receipt of the



1 Administrator's decision, showing why the proposed fine or benefit
2 penalty should not be imposed.

3 2. If a notice of appeal is filed as required by subsection 1, the
4 ~~Administrator~~ *appeals officer* shall, in accordance with the
5 provisions of NRS 233B.121, issue a notice of hearing that must
6 include a date for a hearing on the matter, which must be no sooner
7 than 30 days after the notice of appeal is filed. The ~~Administrator~~
8 *appeals officer* may grant a continuance of the hearing upon a
9 showing of good cause.

10 3. If a notice of appeal is not filed as required by this section,
11 the imposition of the fine or benefit penalty shall be deemed a final
12 order and is not subject to review by any court or agency.

13 4. ~~Except as otherwise provided in NRS 616A.467, a~~ A
14 hearing held pursuant to this section must be conducted by the
15 ~~Administrator or a person designated by him.~~ *appeals officer*. A
16 record of the hearing must be kept, but it need not be transcribed
17 unless it is requested by the person against whom the order or notice
18 of violation has been issued and that person pays the cost of
19 transcription. The ~~Administrator~~ *appeals officer* shall render a
20 written decision on the appeal.

21 5. An administrative fine imposed pursuant to this chapter or
22 chapter 616A, 616B, 616C or 617 of NRS must be paid to the
23 Division. If the violation for which the fine is levied was committed
24 by a person while acting within the course and scope of his agency
25 or employment, the fine must be paid by his principal or employer.
26 The fine may be recovered in a civil action brought in the name of
27 the Division in a court of competent jurisdiction in the county in
28 which the violation occurred or in which the person against whom
29 the fine is levied has his principal place of business.

30 6. A benefit penalty imposed pursuant to NRS 616D.120 must
31 be paid to the claimant on whose behalf it is imposed. If ~~such~~ *the*
32 payment is not made within the period required by NRS 616D.120,
33 the benefit penalty may be recovered in a civil action brought by the
34 Administrator on behalf of the claimant in a court of competent
35 jurisdiction in the county in which the claimant resides, in which the
36 violation occurred or in which the person who is required to pay the
37 benefit penalty has his principal place of business.

38 7. Any party aggrieved by a decision of ~~the Administrator~~ *an*
39 *appeals officer* rendered pursuant to this section may appeal the
40 decision directly to the district court.

41 **Sec. 10.** NRS 617.352 is hereby amended to read as follows:

42 617.352 1. A treating physician, ~~or~~ chiropractor *or medical*
43 *facility* shall, within 3 working days after ~~the first treats~~ *first*
44 *providing treatment to* an employee who has incurred an
45 occupational disease, complete and file *a claim for compensation*



1 with the employer of the employee and the employer's insurer . ~~[-a~~
2 ~~claim for compensation.]~~ If the employer is a self-insured employer,
3 the treating physician , ~~[or]~~ chiropractor *or medical facility* shall file
4 the claim for compensation with the employer's third-party
5 administrator. If the physician , ~~[or]~~ chiropractor *or medical facility*
6 files the claim for compensation by electronic transmission, ~~[he]~~ *the*
7 *physician, chiropractor or medical facility* shall, upon request, mail
8 to the insurer or third-party administrator the form that contains the
9 original signatures of the employee and the physician ~~[or~~
10 ~~chiropractor.]~~ , *chiropractor or authorized person at the medical*
11 *facility*. The form must be mailed within 7 days after receiving such
12 a request.

13 2. A claim for compensation required by subsection 1 must be
14 *submitted* on a form prescribed by the Administrator.

15 3. If a claim for compensation is accompanied by a certificate
16 of disability, the certificate must include a description of any
17 limitation or restrictions on the employee's ability to work.

18 4. Each physician, chiropractor and medical facility that treats
19 employees who have incurred occupational diseases, each insurer,
20 third-party administrator and employer, and the Division shall
21 maintain at their offices a sufficient supply of the forms prescribed
22 by the Administrator for filing a claim for compensation.

23 5. The Administrator shall impose an administrative fine of not
24 more than \$1,000 against a physician , ~~[or]~~ chiropractor *or medical*
25 *facility* for each violation of subsection 1.

26 **Sec. 11.** NRS 617.354 is hereby amended to read as follows:

27 617.354 1. Except as otherwise provided in NRS 616B.727,
28 within 6 working days after the receipt of a claim for compensation
29 from a physician ~~[or-chiropractor.]~~ , *chiropractor or medical*
30 *facility*, an employer shall complete and file with his insurer or
31 third-party administrator an employer's report of industrial injury or
32 occupational disease.

33 2. The report must:

34 (a) Be *submitted* on a form prescribed by the Administrator;

35 (b) Be signed by the employer or his designee;

36 (c) Contain specific answers to all questions required by the
37 regulations of the Department; and

38 (d) Be accompanied by a statement of the wages of the
39 employee if the claim for compensation received from the treating
40 physician , ~~[or]~~ chiropractor *or medical facility* indicates that the
41 employee is expected to be off work for 5 days or more.

42 3. An employer who files the report required by subsection 1
43 by electronic transmission shall, upon request, mail to the insurer or
44 third-party administrator the form that contains the original



1 signature of the employer or his designee. The form must be mailed
2 within 7 days after receiving such a request.

3 4. The Administrator shall impose an administrative fine of not
4 more than \$1,000 against an employer for each violation of this
5 section.

6 **Sec. 12.** NRS 617.401 is hereby amended to read as follows:

7 617.401 1. The Division shall designate one:

8 (a) Third-party administrator who has a valid certificate issued
9 by the Commissioner pursuant to NRS 683A.085; or

10 (b) Insurer, other than a self-insured employer or association of
11 self-insured public or private employers,
12 to administer claims against the Uninsured Employers' Claim
13 Account. The designation must be made pursuant to reasonable
14 competitive bidding procedures established by the Administrator.

15 2. Except as otherwise provided in this subsection, an
16 employee may receive compensation from the Uninsured
17 Employers' Claim Account if:

18 (a) He was hired in this state or he is regularly employed in this
19 state;

20 (b) He contracts an occupational disease that arose out of and in
21 the course of employment:

22 (1) In this state; or

23 (2) While on temporary assignment outside the State for ~~the~~
24 ~~period of~~ not more than 12 months;

25 (c) He files a claim for compensation with the Division; and

26 (d) He makes an irrevocable assignment to the Division of a
27 right to be subrogated to the rights of the employee pursuant to
28 NRS 616C.215.

29 An employee who contracts an occupational disease that arose out
30 of and in the course of employment while on temporary assignment
31 outside the State is not entitled to receive compensation from the
32 Uninsured Employers' Claim Account unless he has been denied
33 workers' compensation in the state in which the disease was
34 contracted.

35 3. If the Division receives a claim pursuant to subsection 2, the
36 Division shall immediately notify the employer of the claim.

37 4. For the purposes of this section, the employer has the burden
38 of proving that he provided mandatory coverage for occupational
39 diseases for the employee or that he was not required to maintain
40 industrial insurance for the employee.

41 5. Any employer who has failed to provide mandatory
42 coverage required by the provisions of this chapter is liable for all
43 payments made on his behalf, including, but not limited to, any
44 benefits, administrative costs or attorney's fees paid from the
45 Uninsured Employers' Claim Account or incurred by the Division.



1 6. The Division:

2 (a) May recover from the employer the payments made by the
3 Division that are described in subsection 5 and any accrued interest
4 by bringing a civil action in district court.

5 (b) In any civil action brought against the employer, is not
6 required to prove that negligent conduct by the employer was the
7 cause of the occupational disease.

8 (c) May enter into a contract with any person to assist in the
9 collection of any liability of an uninsured employer.

10 (d) In lieu of a civil action, may enter into an agreement or
11 settlement regarding the collection of any liability of an uninsured
12 employer.

13 7. The Division shall:

14 (a) Determine whether the employer was insured within 30 days
15 after receiving the claim from the employee.

16 (b) Assign the claim to the third-party administrator or insurer
17 designated pursuant to subsection 1 for administration and payment
18 of compensation.

19 Upon determining whether the claim is accepted or denied, the
20 designated third-party administrator or insurer shall notify the
21 injured employee, the named employer and the Division of its
22 determination.

23 8. Upon demonstration of the:

24 (a) Costs incurred by the designated third-party administrator or
25 insurer to administer the claim or pay compensation to the injured
26 employee; or

27 (b) Amount that the designated third-party administrator or
28 insurer will pay for administrative expenses or compensation to the
29 injured employee and that such amounts are justified by the
30 circumstances of the claim,
31 the Division shall authorize payment from the Uninsured
32 Employers' Claim Account.

33 9. Any party aggrieved by a determination ~~[regarding the~~
34 ~~administration of an assigned claim or a determination]~~ made by the
35 Division ~~[or by the designated third party administrator or insurer]~~
36 regarding *the assignment of* any claim made pursuant to this section
37 may appeal that determination *by filing a notice of appeal with an*
38 *appeals officer* within ~~[60]~~ 30 days after the determination is
39 rendered. *The provisions of NRS 616C.345 to 616C.385, inclusive,*
40 *apply to an appeal filed pursuant to this subsection.*

41 10. *Any party aggrieved by a determination to accept or to*
42 *deny any claim made pursuant to this section or by a*
43 *determination to pay or to deny the payment of compensation*
44 *regarding any claim made pursuant to this section may appeal that*
45 *determination, within 70 days after the determination is rendered,*



1 to the Hearings Division of the Department of Administration in the
2 manner provided by NRS 616C.305 and 616C.315 . ~~to 616C.385,~~
3 ~~inclusive.~~

4 ~~10.]~~ **11.** All insurers shall bear a proportionate amount of a
5 claim made pursuant to this chapter, and are entitled to a
6 proportionate amount of any collection made pursuant to this section
7 as an offset against future liabilities.

8 ~~11.]~~ **12.** An uninsured employer is liable for the interest on
9 any amount paid on his claims from the Uninsured Employers'
10 Claim Account. The interest must be calculated at a rate equal to the
11 prime rate at the largest bank in Nevada, as ascertained by the
12 Commissioner of Financial Institutions, on January 1 or July 1, as
13 the case may be, immediately preceding the date of the claim, plus 3
14 percent, compounded monthly, from the date the claim is paid from
15 the Account until payment is received by the Division from the
16 employer.

17 ~~12.]~~ **13.** Attorney's fees recoverable by the Division pursuant
18 to this section must be:

19 (a) If a private attorney is retained by the Division, paid at the
20 usual and customary rate for that attorney.

21 (b) If the attorney is an employee of the Division, paid at the
22 rate established by regulations adopted by the Division.

23 Any money collected must be deposited to the Uninsured
24 Employers' Claim Account.

25 ~~13.]~~ **14.** In addition to any other liabilities provided for in this
26 section, the Administrator may impose an administrative fine of not
27 more than \$10,000 against an employer if the employer fails to
28 provide mandatory coverage required by the provisions of this
29 chapter.

30 **Sec. 13.** This act becomes effective on July 1, 2003.

