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**SENATE BILL 5875**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senator Nguyen

1 AN ACT Relating to adding employees employed by the department of  
2 licensing who are assigned to review, process, approve, and issue  
3 driver licenses to the definition of frontline employees under the  
4 health emergency labor standards act; and amending RCW 51.32.181.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 51.32.181 and 2021 c 252 s 1 are each amended to  
7 read as follows:

8 (1) For frontline employees who are covered under this title,  
9 there exists a prima facie presumption that any infectious or  
10 contagious diseases that are transmitted through respiratory droplets  
11 or aerosols, or through contact with contaminated surfaces and are  
12 the subject of a public health emergency are occupational diseases  
13 under RCW 51.08.140 during a public health emergency.

14 (2) The frontline employee must provide verification, as required  
15 by the department by rule, to the department and the self-insured  
16 employer that the employee has contracted the infectious or  
17 contagious disease that is the subject of the public health  
18 emergency.

19 (3) This presumption of occupational disease may be rebutted by a  
20 preponderance of the evidence that:

1 (a) The exposure to the infectious or contagious disease which is  
2 the subject of the public health emergency occurred from other  
3 employment or nonemployment activities; or

4 (b) The employee was working from the employee's home, on leave  
5 from the employee's employment, or some combination thereof, for the  
6 period of quarantine consistent with recommended guidance from state  
7 and federal health officials for the disease immediately prior to the  
8 employee's injury, occupational disease, or period of incapacity that  
9 resulted from exposure to the disease which is the subject of the  
10 public health emergency.

11 (4) (a) RCW 51.32.090(7) does not apply to an occupational disease  
12 under this section except that no worker shall receive compensation  
13 for or during the day on which the occupational disease was  
14 contracted. For the purposes of this subsection (4), the day on which  
15 the occupational disease was contracted is whichever date occurs  
16 first of the following:

17 (i) The date that the worker first missed work due to symptoms of  
18 the infectious or contagious disease;

19 (ii) The date the worker was quarantined by a medical provider or  
20 public health official; or

21 (iii) The date the worker received a positive test result  
22 confirming contraction of the infectious or contagious disease.

23 (b) If leave or similar benefits are paid to the frontline  
24 employee as part of a federal or state program for these employees  
25 during the public health emergency, temporary total disability  
26 benefits are not payable for the same period of time covered by the  
27 federal or state program.

28 (5) When calculating assessments due to the department for which  
29 total claim costs are the basis, self-insured employers and self-  
30 insurance hospital groups formed under RCW 51.14.150 and 51.14.160  
31 may deduct the cost of payments made under this section from the  
32 total of all claim costs reported.

33 (6) Costs of the payments under this section shall not affect the  
34 experience rating of employers insured by the state fund.

35 (7) As used in this section:

36 (a) "Assisted living facility" has the same meaning as in RCW  
37 18.20.020.

38 (b) "Farm work" means work performed on a farm, in the employ of  
39 any person, in connection with the cultivation of the soil, or in  
40 connection with raising or harvesting any agricultural or

1 horticultural commodity, including raising, shearing, feeding, caring  
2 for, training, and management of livestock, bees, poultry, and  
3 furbearing animals and wildlife, or in the employ of the owner or  
4 tenant or other operator of a farm in connection with the operation,  
5 management, conservation, improvement, or maintenance of such farm  
6 and its tools and equipment. For the purposes of this subsection,  
7 "farm work" includes floriculture.

8 (c) "Food distribution work" means work where the primary duties  
9 include transporting food from food producers or manufacturers to  
10 food warehouses or food service operators and retailers.

11 (d) "Food manufacturing work" means work performed for an  
12 employer whose North American industry classification code is within  
13 "311."

14 (e) "Food processing work" means work handling or processing of  
15 any food in any manner of preparation for sale for an employer  
16 required to be licensed by the department of agriculture under  
17 chapter 69.07 RCW.

18 (f) "Frontline employee" includes the following employees:

19 (i) First responders, including law enforcement officers,  
20 firefighters, emergency medical service providers, paramedics, and  
21 ambulance drivers. "Firefighters" includes wildland firefighters when  
22 performing wildfire suppression or other emergency duties under the  
23 incident command system if the firefighter has in-person interaction  
24 with the general public or other firefighters as part of their job  
25 duties;

26 (ii) Employees performing food processing, food manufacturing,  
27 food distribution, farm, and meat packing work;

28 (iii) Maintenance, janitorial, and food service workers at any  
29 facility treating patients diagnosed with the infectious or  
30 contagious disease that is the subject of the public health  
31 emergency;

32 (iv) Drivers and operators employed by a transit agency or any  
33 other public entity authorized under state law to provide mass  
34 transportation services to the general public;

35 (v) Employees working at a child care facility licensed by the  
36 department of children, youth, and families under chapter 43.216 RCW,  
37 if the employee has in-person interaction with children or other  
38 members of the general public as part of their job duties;

39 (vi) Employees employed by a retail store that remains open to  
40 the general public during the public health emergency, if the

1 employee has in-person interaction with the general public as part of  
2 their job duties or has in-person interaction with other employees.  
3 For the purposes of this subsection, "retail store" means a business  
4 whose North American industry classification code is within "44-45";

5 (vii) Employees employed by a hotel, motel, or other transient  
6 accommodation licensed under chapter 70.62 RCW that remains open to  
7 the general public during the public health emergency, if the  
8 employee has in-person interaction with the general public as part of  
9 their job duties or has in-person interaction with other employees;

10 (viii) Employees employed by a restaurant, if the employee has  
11 in-person interaction with the general public as part of their job  
12 duties or works in the kitchen of the restaurant and has in-person  
13 interaction with other employees. For the purposes of this  
14 subsection, "restaurant" has the same meaning as in RCW 66.04.010;

15 (ix) Home care aides certified under chapter 18.88B RCW and home  
16 health aides that provide services under chapter 70.126 RCW that  
17 primarily work in the home of the individual receiving care;

18 (x) (A) Corrections officers and correctional support employees  
19 working at a correctional institution.

20 (B) For the purposes of this subsection (7) (f) (x):

21 (I) "Correctional institution" has the same meaning as in RCW  
22 9.94.049.

23 (II) "Corrections officer" means any corrections agency employee  
24 whose primary job function is to provide custody, safety, and  
25 security of prisoners in jails and detention facilities.

26 (III) "Correctional support employee" means any employee who  
27 provides food services or janitorial services in a correctional  
28 institution;

29 (xi) Educational employees, including classroom teachers,  
30 paraeducators, principals, librarians, school bus drivers, and other  
31 educational support staff, of any school district, or a contractor of  
32 a school district, that are required to be physically present at a  
33 school or on the grounds of a school where classes are being taught  
34 in person, in a transportation vehicle necessary for school  
35 operations, or in the home of a student as part of their job duties,  
36 if the employee has in-person interaction with students, a student's  
37 family members, or other employees as part of their job duties;

38 (xii) Employees of institutions of higher education that are  
39 required to be physically present on campus when classes are being  
40 taught in person, if the employee has in-person interaction with

1 students or the general public as part of their job duties. For the  
2 purposes of this subsection, "institution of higher education" has  
3 the same meaning as in RCW 28B.10.016;

4 (xiii) Employees employed by a public library that remains open  
5 to the general public during the public health emergency, if the  
6 employee has in-person interaction with the general public as part of  
7 their job duties or has in-person interaction with other employees.  
8 For the purposes of this subsection, "public library" means a library  
9 covered by chapter 27.12 RCW;

10 (xiv) Employees employed by the department of licensing who are  
11 assigned to review, process, approve, and issue driver licenses to  
12 the general public, if the employee has in-person interaction with  
13 the general public as part of their job duties or has in-person  
14 interaction with other employees.

15 (g) "Meat packing work" means work slaughtering animals and  
16 processing and packaging meat products for sale and the rendering of  
17 animal by-products.

18 (h) "Nursing home" means a nursing home licensed under chapter  
19 18.51 RCW.

20 (i) "Public health emergency" means a declaration or order  
21 concerning any infectious or contagious diseases, including a  
22 pandemic and is issued as follows:

23 (i) The president of the United States has declared a national or  
24 regional emergency that covers every county in the state of  
25 Washington; or

26 (ii) The governor of Washington has declared a state of emergency  
27 under RCW 43.06.010(12) in every county in the state.

28 (j) "School" has the same meaning as in RCW 28A.210.070.

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