

Title 14 – Employment

Chapter 2 – Workers’ Compensation

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Legislative History

Enacted:

Regulating Workers’ Compensation, Ord. 190 (10/24/03), BIA (11/7/03).

Repealed or Superseded:

Workers’ Compensation Ordinance, Ord. 119 (6/4/96), BIA (6/13/96).

14-02.010 Title.

This Chapter shall be referred to as the “Workers’ Compensation Code.”

[History] Ord. 190 (10/24/03).

14-02.020 Authority.

This Chapter is hereby adopted pursuant Article VI, Section 1(k), (l), and (m) of the Swinomish Constitution.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.030 Purpose and Scope.

The purpose of this Chapter is to provide the same protection from liability to the employer, and the same benefits to the employee, as are provided under the Washington State workers' compensation laws administered by the Department of Labor & Industries. This Chapter, and all provisions of

Washington State law incorporated herein by reference as tribal law, shall be interpreted to fulfill that purpose.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.040 Definitions.

(A) For purposes of this Chapter, unless otherwise expressly provided, the following definitions shall apply:

(1) **“Tribe”** means the Swinomish Indian Tribal Community.

(B) All other words and phrases shall have the same meanings as contained in RCW 51.08.

[History] Ord. 190 (10/24/03).

14-02.050 Applicability.

This Chapter shall apply to the Tribe, every entity of the Tribe that is an employer, and to all employees of the Tribe and its entities. For purposes of this Chapter, "every entity of the Tribe" includes every political subdivision, subordinate organization, economic enterprise, commission, and authority organized under tribal law, including but not limited to the Swinomish Housing Authority, the Swinomish Utility Authority, and the Swinomish Casino & Bingo, but does not include inter-tribal organizations such as Skagit System Cooperative.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.060 Incorporation of State Law.

Except as otherwise provided herein, all of Title 51 except Chapters 51.14 and 51.60, Revised Code of Washington, and any future amendments to Title 51, are hereby adopted as tribal law.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.070 Claims and Notices.

The employer shall report accidents to, and employees shall file claims with, the insurer selected by the Tribe to provide workers' compensation insurance coverage.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.080 Initial Appeals.

Any employee, beneficiary, employer, or other person or entity aggrieved by an initial decision of the insurer may appeal such decision pursuant to the internal appeal procedures established by the insurer.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.090 Appeals to Tribal Court.

After an initial appeal pursuant to Section 14-02.080 of this Chapter has been decided, any employee, beneficiary, employer, or other person or entity aggrieved by the decision of the insurer may, within sixty (60) days of receiving notice of the decision, bring an action appealing the decision in the Swinomish Tribal Court, pursuant to the Rules of Civil Procedure, STC Chapter 3-02. The Tribal Court shall hear the matter *de novo*. The Tribal Court may grant only such relief as could be granted by the Washington Board of Industrial Insurance Appeals or the Superior Court in a workers' compensation appeal under Washington State law. A decision of the Tribal Court may be appealed to the Tribal Court of Appeals pursuant to STC Title 3.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.100 Sovereign Immunity.

Except as to claims that are wholly covered by workers' compensation insurance obtained by the Tribe, nothing in this Chapter, or in any state law incorporated herein by reference as tribal law, shall in any way waive or diminish the sovereign immunity of the Swinomish Indian Tribal Community.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).

14-02.110 Insurance.

Notwithstanding any other provision of this Chapter or the Swinomish Tribal Code; with respect to any claim made under this Chapter, in the Tribal Court, for which the Tribe carries an active and enforceable policy of insurance, suit may be brought for damages up to the full available amount of the coverage provided in the insurance policy: provided, no judgment on any such claim may be for more than the amount of insurance carried by the Tribe; and further provided, any such judgment against the Tribe may only be satisfied pursuant to the provisions of the policy or policies of insurance then in effect.

[History] Ord. 190 (10/24/03).

14-02.120 Repealer.

Ordinance 119 and any amendments thereto are hereby repealed.

[History] Ord. 190 (10/24/03).

14-02.130 Severability.

If any provision of this Chapter or its application to any person or circumstance is held invalid, the remainder of the Chapter, or the application of the provision to other persons or circumstances, remains in effect.

[History] Ord. 190 (10/24/03).

14-02.140 Effective Date.

This Chapter shall become effective upon approval by the Secretary of the Department of the Interior or the Secretary's designee.

[History] Ord. 190 (10/24/03); Ord. 119 (6/4/96).