

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1784

By: Paulk

AS INTRODUCED

An Act relating to labor; amending 40 O.S. 1991, Section 418, which relates to payments to the Oklahoma Tax Commission; increasing certain fee; directing certain uses of fee; providing for submission of state plan; requiring employer health and safety program; defining terms; requiring Commissioner of Labor to promulgate certain rules and regulations; requiring compensation during safety training; creating the Worker Safety Policy Council; providing for members; providing for appointments; providing for meetings; providing for duties; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 40 O.S. 1991, Section 418, is amended to read as follows:

Section 418. (1) Each insurance carrier writing workers' compensation insurance in this state, the State Insurance Fund and each self-insured employer authorized to make workers' compensation payments directly to employees shall pay to the Oklahoma Tax Commission up to a sum equal to ~~three-fourths of one percent (3/4 of~~

~~1%~~ one and one-half percent (1 1/2%) of the total workers' compensation losses, excluding medical payments and temporary total disability compensation, based on the records of the Workers' Compensation Court, paid out or payable during each quarter-year period of the calendar year, said percentage to be fixed by the Commissioner and based upon his certification that the proceeds thereof are reasonable and necessary to accomplish the objectives of Section 401 et seq. of this title with at least sixty-five percent (65%) of all the income from the safety and health tax to be dedicated to the funding of safety education, training, consultation programs at the Department of Labor and a publicity program encouraging worker safety with involvement from the legislative and executive branches of government. Such payments to the Oklahoma Tax Commission shall be made not later than the fifteenth day of the month following the close of the quarter-year in which compensation is paid or becomes payable. Payments made, under the provisions of this section, shall be considered losses for the purpose of computing workers' compensation rates.

(2) The refund provisions of Title 68 of the Oklahoma Statutes, Sections 227 through 229, shall be applicable to any payments made under the provisions of this act.

(3) In making and entering awards for compensation, the Workers' Compensation Court shall determine and fix the amounts that shall be paid to the Oklahoma Tax Commission under the provisions of this section. The total amount so determined and fixed shall have the same force and effect as an award of the Workers' Compensation Court for compensation and all provisions relating to the collection of awards of said court shall apply to such judgments.

(4) It shall be the duty of the Oklahoma Tax Commission to collect the payments provided for herein, and said Commission is hereby given authority to bring an action for the recovery of any delinquent and unpaid payment or payments. In the alternative, the

Oklahoma Tax Commission may enforce payments by proceeding in accordance with the provisions of Section 42 of Title 85 of the Oklahoma Statutes.

(5) The Oklahoma Tax Commission shall, monthly, as the same are collected, pay to the State Treasurer of this state, to the credit of the Special Occupational Health and Safety Fund, all monies collected under the provisions of this section. Monies shall be paid out of said Fund exclusively for the operation and administration of Section 401 et seq. of this title and for other necessary expenses of the Department of Labor pursuant to appropriations by the Oklahoma Legislature.

(6) The Commissioner shall determine the needs of the program, considering statistical data on disabling work injuries, depth and scope of the program as evidenced by the needs and demands of employers and the present, planned and anticipated budgetary needs of the program, and submit same to the Legislature.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418.1 of Title 40, unless there is created a duplication in numbering, reads as follows:

The State of Oklahoma by and through the Commissioner of Labor is hereby authorized to submit a state plan to the United States Secretary of Labor to contract with the United States Department of Labor to cede jurisdiction over public employees to the State of Oklahoma through the Oklahoma Department of Labor for the regulation of the safety of those employees through the Occupational Safety and Health Act of 1970.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418.2 of Title 40, unless there is created a duplication in numbering, reads as follows:

A. 1. Each employer shall, in accordance with this section, establish and carry out a safety and health program to reduce or

eliminate hazards and to prevent injuries and illnesses to employees within two (2) years from the effective date of this act.

2. The Commissioner may, pursuant to regulations promulgated under paragraph 1 of subsection C of this section, modify the application of the requirements of this section to classes of employers where the Commissioner determines that, in light of the nature of the risks faced by the employees of such employers, such a modification would not reduce the employees' safety and health protection.

3. As used in this section, the term "worksite" means a single physical location where business is conducted or where operations are performed by employees of an employer.

4. As used in this section, "employer" shall mean public or private employer.

B. A safety and health program established and carried out under subsection A of this section shall be a written program that shall include:

1. Methods and procedures for identifying, evaluating and documenting safety and health hazards;

2. Methods and procedures for correcting the safety and health hazards identified under paragraph 1 of this subsection;

3. Methods and procedures for investigating work-related fatalities, injuries and illnesses;

4. Methods and procedures for providing occupational safety and health services, including emergency response and first aid procedures;

5. Methods and procedures for employee participation in the implementation of the safety and health program;

6. Methods and procedures for providing safety and health training and education to employees;

7. The designation of a representative of the employer who has the qualifications and responsibility to identify safety and health

hazards and the authority to initiate corrective action where appropriate;

8. In the case of a worksite where employees of two (2) or more employers work, procedures for each employer to protect employees at the worksite from hazards under the employer's control, including procedures to provide information on safety and health hazards to other employers and employees at the worksite; and

9. Such other provisions as the Commissioner requires to effectuate the purposes of this act.

C. 1. Not later than one (1) year after the effective date of this section, the Secretary shall promulgate final regulations concerning the establishment and implementation of employer safety and health programs under this act.

Regulations promulgated under this paragraph shall include provisions for the training and education of employees. Such regulations shall:

- a. provide for the training and education of employees in a manner that is readily understandable by such employees, concerning safety and health hazards, control measures, the employer's safety and health program, employee rights and applicable laws and regulations,
- b. require that training and education be provided to employees at the time of employment,
- c. require that refresher training be provided on at least an annual basis and that additional training be provided to employees when there are changes in conditions or operations that may expose employees to new or different safety or health hazards or when there are changes in safety and health regulations or standards that apply to the employer, and

- d. penalties for the employer's failure to comply with provisions of this section.

2. The time during which employees are participating in training and education activities under this subsection shall be considered as hours worked for purposes of wages, benefits, and other terms and conditions of employment. Such training and education shall be provided by an employer at no cost to the employees of the employer.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 418.3 of Title 40, unless there is created a duplication in numbering, reads as follows:

There is hereby created the Worker Safety Policy Council to study and formulate reforms for worker safety that could result in lower work-related injuries and result in lower workers' compensation costs for business.

1. The Worker Safety Policy Council shall be comprised of the following members:

- a. the Commissioner of Labor, who shall act as chairman for the Council,
- b. the Administrator of the Workers' Compensation Court,
- c. the Commissioner of the State Insurance Fund,
- d. the Insurance Commissioner,
- e. the Director of the Department of Commerce,
- f. a representative from the Oklahoma Safety Council,
- g. a representative from an American society or organization of safety engineers,
- h. a representative from an American industrial hygiene association,
- i. a representative from an Oklahoma labor union,
- j. a representative from an Oklahoma state chamber of commerce and industry,

k. a representative from an organization of the private sector, and

l. a representative from an organization of public employees.

2. Appointments of representatives from different organizations shall be made by the Commissioner of Labor. Vacancies shall be filled by the Commissioner of Labor. Five (5) members of the Council shall constitute a quorum.

3. The Council shall hold at least two (2) regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall make annual recommendations for legislative and policy changes to public and private employers to reduce worker injuries and the resulting costs associated with those injuries. A copy of the annual report shall be delivered to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 5. This act shall become effective September 1, 1993.

44-1-5490

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