

SHORT TITLE: Workers' compensation; eliminating penalty reduction for employers who comply after notice; eliminating certain waiting period before issuance of cease and desist order by Commissioner of Labor. Effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1186

By: Long

AS INTRODUCED

An Act relating to workers' compensation; amending 85 O.S. 1991, Section 63.1, as last amended by Section 13, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1997, Section 63.1), which relates to failure to secure workers' compensation insurance; eliminating penalty reduction for employers who comply after notice; eliminating certain waiting period before issuance of cease and desist order by Commissioner of Labor; and providing an effective date.

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

SECTION 1. AMENDATORY 85 O.S. 1991, Section 63.1, as last amended by Section 13, Chapter 361, O.S.L. 1997 (85 O.S. Supp. 1997, Section 63.1), is amended to read as follows:

Section 63.1 A. In addition to any other penalty prescribed by law, any employer who fails to secure compensation required by Section 61 of this title shall be liable for a civil penalty, to be assessed by the Commissioner of Labor or designee, of not more than Two Hundred Fifty Dollars (\$250.00) per employee for a first offense, ~~and unless the employer secures workers' compensation insurance within thirty (30) days after receiving notice of the violation. If the employer secures workers' compensation insurance within thirty (30) days after receiving notice of the violation, the~~

~~employer shall be liable for a civil penalty of not more than Seventy-five Dollars (\$75.00) per employee. An employer shall be liable for a civil penalty of not more than One Thousand Dollars (\$1,000.00) per employee for a second or subsequent offense.~~
Provided; provided, the maximum civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for all related series of violations. All civil penalties collected shall be deposited in the "Workers' Compensation Enforcement Revolving Fund" created by this section and shall be used to enforce the provisions of the Workers' Compensation Act.

B. After an employer is cited for two offenses of failing to obtain workers' compensation insurance ~~and fails to obtain coverage within thirty (30) days of the second citation~~, the Commissioner of Labor shall issue cease and desist orders, in accordance with the Department of Labor administrative rules and procedures, against an employer until the violating employer shall obtain workers' compensation insurance for its employees. The Commissioner of Labor shall have the authority to require the cessation of activities of an employer whose employees are not covered by workers' compensation insurance until the violating employer shall obtain workers' compensation insurance for its employees; provided that an employer who has made application for workers' compensation coverage with either the State Insurance Fund or a private insurance carrier, and who, through no fault of the employer, has not received notice that such coverage has commenced, shall not be made to cease operations, as provided for in this section, until a determination has been made concerning ~~his~~ the employer's application for workers' compensation coverage. Any order to cease and desist issued by the Commissioner may be enforced in district court. The district court may issue the Commissioner an injunction without bond, for the purposes of enforcing this section.

C. The Commissioner of Labor or designee shall assess and collect any civil penalty incurred under subsection A of this section and, in the Commissioner's discretion, may remit, mitigate, or negotiate ~~said~~ the penalty. In determining the amount of the penalty to be assessed, or the amount agreed upon in any negotiation, consideration shall be given to the appropriateness of ~~such~~ the penalty in light of the life of the business of the employer charged, the gravity of the violation, and the extent to which the employer charged has complied with the provisions of Section 61 of this title or has otherwise attempted to remedy the consequences of the said violation. Individual proceedings shall be conducted pursuant to the provisions of Section 63.2 of this title.

D. There is hereby created in the State Treasury a revolving fund for the Department of Labor to be designated the "Workers' Compensation Enforcement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies collected by the Department pursuant to the provisions of this section. Expenditures from ~~said~~ the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

E. No hospital or health provider shall charge more for a workers' compensation claim than for the same service not involving workers' compensation.

SECTION 2. This act shall become effective November 1, 1998.

46-2-2184

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