

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

SENATE BILL NO. 698

By: Price

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. 1998, Section 63.1), which relates to penalties for failure to secure workers' compensation coverage; clarifying language; establishing two classes of employers subject to certain penalties and procedures; requiring warning for first offense of failing to obtain workers' compensation coverage for certain employers and providing penalties for second, third, and subsequent offenses; 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. 1998, Section 63.1), is amended to read as follows:

Section 63.1 A. In addition to any other penalty prescribed by law, if the Commissioner of Labor or a designee finds that any an employer ~~who fails~~ has failed to secure compensation as required by Section 61 of this title, the employer shall be ~~liable~~ subject to the following:

1. If the employer has five (5) or fewer full-time employees, fewer than ten (10) part-time employees, and fewer than twelve (12) total employees, for a first offense the employer shall be given a warning for failure to secure compensation. This warning shall not require the employer to appear in an individual proceeding, but does require the employer to provide proof of insurance to the Commissioner within thirty (30) days after receipt of the warning. For a second offense occurring more than thirty (30) days after the

receipt of the warning the employer shall be subject to a civil penalty in an individual proceeding of not more than Fifty Dollars (\$50.00) per employee not to exceed Five Hundred Dollars (\$500.00). For a third or subsequent offense, the employer shall be subject to a civil penalty in an individual proceeding of not more than Two Hundred Fifty Dollars (\$250.00) per employee; and

2. If the employer is not subject to paragraph 1 of this subsection, for a first offense the employer shall be liable in an individual proceeding 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, 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.

B. All civil penalties collected pursuant to this section 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.~~ C. 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 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.~~ D. 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 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 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.~~ E. 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 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.~~ F. 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, 1999.

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