

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2317

By: Key of the House

and

Shortey of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to workers' compensation; amending 85
12 O.S. 2011, Section 352, which relates to penalties
13 for the failure of an employer to secure
14 compensation; modifying penalties; authorizing the
15 award of certain proceeds to an individual reporting
16 violations; prohibiting the release of the identity
17 of reporter; specifying certain information shall not
18 be subject to the Oklahoma Open Records Act; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 85 O.S. 2011, Section 352, is
22 amended to read as follows:

23 Section 352. A. In addition to any other penalty prescribed by
24 law, any employer who fails to secure compensation required by

1 Section ~~51~~ 351 of this ~~act~~ title shall be liable for a civil
2 penalty, to be assessed by the Commissioner of Labor or designee, of
3 not more than ~~Two Hundred Fifty Dollars (\$250.00)~~ Five Hundred
4 Dollars (\$500.00) per employee for a first offense, unless the
5 employer secures workers' compensation insurance within thirty (30)
6 days after receiving notice of the violation. If the employer
7 secures workers' compensation insurance within thirty (30) days
8 after receiving notice of the violation, the employer shall be
9 liable for a civil penalty of not more than ~~Seventy-five Dollars~~
10 ~~(\$75.00)~~ One Hundred Fifty Dollars (\$150.00) per employee. An
11 employer shall be liable for a civil penalty of not more than ~~One~~
12 ~~Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00) per
13 employee for a second or subsequent offense. ~~Provided, the maximum~~
14 ~~civil penalty shall not exceed Ten Thousand Dollars (\$10,000.00) for~~
15 ~~all related series of violations.~~ All civil penalties collected
16 shall be deposited in the Department of Labor Revolving Fund and
17 shall be used to enforce the provisions of the Workers' Compensation
18 Code.

19 B. After an employer is cited for two offenses of failing to
20 obtain workers' compensation insurance and fails to obtain coverage
21 within thirty (30) days of the second citation, the Commissioner of
22 Labor shall issue cease and desist orders, in accordance with the
23 Department of Labor administrative rules and procedures, against an

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1 employer until the violating employer shall obtain workers'
2 compensation insurance for its employees. The Commissioner of Labor
3 shall have the authority to require the cessation of activities of
4 an employer whose employees are not covered by workers' compensation
5 insurance until the violating employer shall obtain workers'
6 compensation insurance for its employees; provided, that an employer
7 who has made application for workers' compensation coverage with
8 either CompSource Oklahoma or a private insurance carrier, and who,
9 through no fault of the employer, has not received notice that such
10 coverage has commenced, shall not be made to cease operations, as
11 provided for in this section, until a determination has been made
12 concerning the ~~employee's~~ employer's application for workers'
13 compensation coverage. Any order to cease and desist issued by the
14 Commissioner may be enforced in district court. The district court
15 may issue the Commissioner an injunction without bond, for the
16 purposes of enforcing this section.

17 C. The Commissioner of Labor or designee shall assess and
18 collect any civil penalty incurred under subsection A of this
19 section and, in the Commissioner's discretion, may remit, mitigate
20 or negotiate the penalty. In determining the amount of the penalty
21 to be assessed, or the amount agreed upon in any negotiation,
22 consideration shall be given to the appropriateness of such penalty
23 in light of the life of the business of the employer charged, the

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1 gravity of the violation, and the extent to which the employer
2 charged has complied with the provisions of Section ~~51~~ 351 of this
3 ~~act~~ title or has otherwise attempted to remedy the consequences of
4 the violation.

5 D. Any individual who reports an employer who has failed to
6 secure compensation required by Section 351 of this title may be
7 awarded as much as twenty-five percent (25%) of the civil penalty
8 collected from the employer, up to Ten Thousand Dollars
9 (\$10,000.00), at the discretion of the Commissioner of Labor. The
10 Commissioner of Labor shall keep the identity of the individual
11 reporting the violation confidential and the information shall not
12 be subject to the Oklahoma Open Records Act, Section 24A.1 through
13 Section 24A.29 of Title 51 of the Oklahoma Statutes.

14 SECTION 2. This act shall become effective November 1, 2012.

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16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/21/2012 - DO
17 PASS, As Amended and Coauthored.

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