

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1441

By: Holt

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5
6 AS INTRODUCED

7 An Act relating to liability of state or political
8 subdivision; amending 85 O.S. 2011, Section 341,
9 which relates to discharge or termination of group
insurance; limiting certain liability; and providing
an effective date.

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

13 SECTION 1. AMENDATORY 85 O.S. 2011, Section 341, is
14 amended to read as follows:

15 Section 341. A. No employer may discharge or, except for
16 nonpayment of premium, terminate any group health insurance of any
17 employee because the employee has in good faith:

- 18 1. Filed a claim;
- 19 2. Retained a lawyer for representation regarding a claim;
- 20 3. Instituted or caused to be instituted any proceeding under
21 the provisions of ~~this act~~ the Workers' Compensation Code;
- 22 4. Testified or is about to testify in any proceeding under the
23 provisions of ~~this act~~ the Workers' Compensation Code; or
- 24

1 5. Elected to participate or not to participate in a certified
2 workplace medical plan as provided in ~~this act~~ the Workers'
3 Compensation Code.

4 B. No employer may discharge any employee during a period of
5 temporary total disability solely on the basis of absence from work.

6 C. After an employee's period of temporary total disability has
7 ended, no employer shall be required to rehire or retain any
8 employee who is determined to be physically unable to perform
9 assigned duties. The failure of an employer to rehire or retain any
10 such employee shall not be deemed a violation of this section.

11 D. No employer may discharge an employee for the purpose of
12 avoiding payment of temporary total disability benefits to the
13 injured employee.

14 E. An employer which violates any provision of this section
15 shall be liable in a district court action for reasonable damages,
16 actual and punitive if applicable, suffered by an employee as a
17 result of the violation. An employee discharged in violation of the
18 Workers' Compensation Code shall be entitled to be reinstated to his
19 or her former position. Exemplary or punitive damage awards made
20 pursuant to this section shall not exceed One Hundred Thousand
21 Dollars (\$100,000.00). The employee shall have the burden of proof
22 by a preponderance of the evidence. The liability of the state or
23 any political subdivision, as defined in paragraph 11 of Section 152
24 of Title 51 of the Oklahoma Statutes, found in violation of this

1 section shall be limited to the amounts set forth under the
2 Governmental Tort Claims Act.

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

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