

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 1013

By: Daniels

AS INTRODUCED

An Act relating to workers' compensation compliance investigations; amending 51 O.S. 2011, Section 24A.12, which relates to litigation and investigatory files; authorizing Workers' Compensation Commission to keep certain files confidential; amending Sections 40, as amended by Section 16, Chapter 476, O.S.L. 2019, and 105, Chapter 208, O.S.L. 2013 (85A O.S. Supp. 2020, Sections 40 and 105), which relate to failure to secure compensation and employees as witnesses; authorizing Workers' Compensation Commission to keep certain files confidential; construing provisions; updating statutory reference; and declaring an emergency.

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

SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.12, is amended to read as follows:

Section 24A.12. Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, the Workers' Compensation Commission, the office of the district attorney of any county of the state, and

1 the office of the municipal attorney of any municipality may keep
2 its litigation files and investigatory reports confidential.

3 SECTION 2. AMENDATORY Section 40, Chapter 208, O.S.L.
4 2013, as amended by Section 16, Chapter 476, O.S.L. 2019 (85A O.S.
5 Supp. 2020, Section 40), is amended to read as follows:

6 Section 40. A. 1. Any employer who fails to secure
7 compensation required under ~~this act~~ the Administrative Workers'
8 Compensation Act, upon conviction, shall be guilty of a misdemeanor
9 and subject to a fine of up to Ten Thousand Dollars (\$10,000.00) to
10 be deposited in the Workers' Compensation Commission Revolving Fund.

11 2. This subsection shall not affect any other liability of the
12 employer under ~~this act~~ the Administrative Workers' Compensation
13 Act.

14 B. 1. Whenever the Workers' Compensation Commission has reason
15 to believe that any employer required to secure the payment of
16 compensation under ~~this act~~ the Administrative Workers' Compensation
17 Act has failed to do so, the Commission shall serve on the employer
18 a proposed judgment declaring the employer to be in violation of
19 ~~this act~~ the Administrative Workers' Compensation Act and containing
20 the amount, if any, of the civil penalty to be assessed against the
21 employer under paragraph 5 of this subsection.

22 2. a. An employer may contest a proposed judgment of the
23 Commission issued under paragraph 1 of this subsection
24 by filing with the Commission, within twenty (20) days
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1 of receipt of the proposed judgment, a written request
2 for a hearing.

3 b. The request for a hearing does not need to be in any
4 particular form but shall specify the grounds on which
5 the person contests the proposed judgment, the
6 proposed assessment, or both.

7 c. If a written request for hearing is not filed with the
8 Commission within the time specified in subparagraph a
9 of this paragraph, the proposed judgment, the proposed
10 penalty, or both, shall be a final judgment of the
11 Commission and shall not be subject to further review
12 by any court, except if the employer shows good cause
13 why it did not timely contest the judgment or penalty.

14 d. A proposed judgment by the Commission under this
15 section shall be prima facie correct, and the burden
16 is on the employer to prove that the proposed judgment
17 is incorrect.

18 3. a. If the employer alleges that a carrier has contracted
19 to provide it workers' compensation insurance coverage
20 for the period in question, the employer shall include
21 the allegation in its request for hearing and shall
22 name the carrier.

23 b. The Commission shall promptly notify the carrier of
24 the employer's allegation and of the date of hearing.

1 c. The carrier shall promptly, and no later than five (5)
2 days before the hearing, respond in writing to the
3 employer's allegation by providing evidence of
4 coverage for the period in question or by
5 affirmatively denying the employer's allegation.

6 4. Hearings under this section shall be procedurally conducted
7 as provided in Sections 69 through 78 of this title.

8 5. The Commission may assess a fine against an employer who
9 fails to secure the payment of compensation in an amount up to One
10 Thousand Dollars (\$1,000.00) per day of violation payable to the
11 Workers' Compensation Commission Revolving Fund, not to exceed a
12 total of Fifty Thousand Dollars (\$50,000.00) for the first
13 violation.

14 6. If an employer fails to secure the payment of compensation
15 or pay any civil penalty assessed against the employer after a
16 judgment issued under this section has become final by operation of
17 law or on appeal, the Commission may petition the Oklahoma County
18 District Court or the district court of the county where the
19 employer's principal place of business is located for an order
20 enjoining the employer from engaging in further employment until
21 such time as the employer secures the payment of compensation or
22 makes full payment of all civil penalties.

23 7. Upon any penalty becoming final under this section, the
24 Commission may institute collection proceedings against any assets
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1 of the employer independently or in district court including, but
2 not limited to, an asset hearing, garnishment of income and wages,
3 judgment lien, or an intercept of an income tax refund consistent
4 with Section 205.2 of Title 68 of the Oklahoma Statutes.

5 8. Information subject to subsection A or B of Section 4-508 of
6 Title 40 of the Oklahoma Statutes may be disclosed to the employees
7 of the Commission for purposes of investigation and enforcement of
8 workers' compensation coverage requirements pursuant to this title,
9 and such information shall be admissible in any hearing before an
10 administrative law judge of the Commission.

11 9. Litigation files and investigatory reports of the Commission
12 arising from enforcement of the provisions of this section shall be
13 confidential pursuant to Section 24A.12 of Title 51 of the Oklahoma
14 Statutes.

15 SECTION 3. AMENDATORY Section 105, Chapter 208, O.S.L.
16 2013 (85A O.S. Supp. 2020, Section 105), is amended to read as
17 follows:

18 Section 105. A. No employee of the Workers' Compensation
19 Commission shall be competent to testify on any matter concerning
20 any information the employee has received through the performance of
21 the employee's duties under the provisions of ~~this act~~ the
22 Administrative Workers' Compensation Act; provided, however, such
23 provision shall not be construed to prohibit testimony by an
24 attorney of the Compliance Division of the Commission or an

1 investigator of the Division called to provide testimony by the
2 attorney.

3 B. The commissioners and employees of the Commission shall not
4 solicit employment for any attorney or physician nor shall they
5 recommend or refer any claimant or employer to an attorney or
6 physician. If any employee of the Commission makes such a
7 solicitation, recommendation or reference, that person, upon
8 conviction, shall be guilty of a misdemeanor punishable, for each
9 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)
10 or by imprisonment in the county jail not to exceed one (1) year, or
11 by both such fine and imprisonment. The Commission shall
12 immediately terminate the employment of any employee who is guilty
13 of such solicitation, recommendation or reference. A commissioner
14 guilty of such solicitation, recommendation or reference shall be
15 subject to removal from office.

16 C. No administrative law judge shall engage in any ex parte
17 communication with any party to an action pending before the
18 Commission or with any witness or medical provider regarding the
19 merits of a specific matter pending before the judge for resolution.
20 Any violation of this provision shall subject the judge to
21 disqualification from the action or matter upon presentation of an
22 application for disqualification.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.
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