



Senate

General Assembly

File No. 193

January Session, 2005

Substitute Senate Bill No. 1250

Senate, April 6, 2005

The Committee on Insurance and Real Estate reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING PENALTIES FOR CONCEALING
INFORMATION RELATED TO WORKERS' COMPENSATION
INSURANCE AND SELF-INSURANCE.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 31-288 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (g) (1) Any employer who, with the intent to injure, defraud or
5 deceive any insurance company insuring the liability of such employer
6 under this chapter, ~~[(1)]~~ (A) knowingly misrepresents to such company
7 one or more employees as independent contractors, or ~~[(2)]~~ (B)
8 knowingly provides false, incomplete or misleading information to
9 such company concerning the number of employees or the job
10 classification of an employee, for the purpose of paying a lower
11 premium on a policy obtained from such company, shall be guilty of a
12 class D felony.

13 (2) Any employer who, with the intent to reduce the amount of
 14 security required to obtain or maintain a certificate of self-insurance
 15 under this chapter, (A) knowingly misrepresents, to the chairman of
 16 the Workers' Compensation Commission or the Insurance
 17 Commissioner, one or more employees as independent contractors, or
 18 (B) knowingly provides false, incomplete or misleading information to
 19 the chairman or the commissioner concerning the number of
 20 employees or the job classification of an employee, shall be guilty of a
 21 class D felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	31-288(g)

INS *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Workers' Compensation Com.	WCF - Cost	214,000 - 306,000	256,000 - 366,000
Workers' Compensation Com.	WCF - Savings	Significant	Significant
Judicial Dept.	GF - Revenue Gain	Less than 50,000	Less than 50,000
Judicial Department (Probation); Correction, Dept.	GF - Cost	Potential	Potential

Note: WCF=Workers' Compensation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill makes it a crime (punishable by a fine of up to \$5,000, up to five years' imprisonment, or both) for any employer, with the intent to reduce the amount of security required to obtain or maintain a certificate of self-insurance, to knowingly mislead the chairman of the Workers' Compensation Commission or the Insurance Commissioner with regard to the following: (1) the status of one or more employees as independent contractors; (2) the number of employees; or (3) the job classification of an employee.

It is anticipated that the Office of the Chief State's Attorney would receive a substantial number of referrals annually under the bill such that its Workers' Compensation Fraud Unit, which presently consists of one prosecutor and three inspectors supported by the Workers' Compensation Fund, would require additional personnel. It is estimated that three to four additional staff members would be needed under the bill, depending upon the ultimate workload involved. The associated, annual cost ranges from \$250,000 to \$370,000, including salaries, fringe benefits and other expenses to support prosecutors, investigators and a forensic accountant. Note that the full cost of these

additional positions would be borne by the Workers' Compensation Fund and appropriated through the budget of the Workers' Compensation Commission. This bill may therefore result in an increase in the annual workers' compensation assessment charged to employers.¹

Few criminal prosecutions and convictions are expected under the bill given that relatively few workers' compensation fraud cases are brought under existing law (twelve cases of workers' compensation fraud were prosecuted in FY 04); consequently, any resulting revenue gain from criminal fines or costs to the criminal justice system for probation or incarceration are expected to be minimal. Less than ten individuals are on probation supervision at any given time for workers' compensation fraud, and no one is presently incarcerated.²

It is anticipated that annual recoveries of workers' compensation premiums by the additional staff provided for above would exceed \$100,000.

¹ The Workers' Compensation Commission is funded by the Workers' Compensation Fund, which is financed through annual assessments on companies that issue workers' compensation insurance and various self-insured entities.

² On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

OLR Bill Analysis

sSB 1250

AN ACT CONCERNING PENALTIES FOR CONCEALING INFORMATION RELATED TO WORKERS' COMPENSATION INSURANCE AND SELF-INSURANCE**SUMMARY:**

This bill makes it a class D felony for an employer, with intent to lower the financial security needed to obtain or continue a workers' compensation self-insurance certificate, to knowingly misinform the Workers' Compensation Commission chairman or insurance commissioner by (1) misrepresenting an employee as an independent contractor or (2) providing false, incomplete, or misleading information about the number of employees or an employee's job classification.

The bill also makes it a class D felony for an employer, with the intent to injure, defraud, or deceive an insurance company, to knowingly misrepresent an employee's job classification to an insurer for the purpose of paying a lower workers' compensation insurance premium. By law, it is already a Class D felony to intentionally and knowingly misrepresent an employee as an independent contractor or provide false, incomplete, or misleading information about the number of employees to obtain a lower premium rate.

Class D penalties are imprisonment from one to five years, a fine up to \$5,000, or both.

EFFECTIVE DATE: October 1, 2005

BACKGROUND***Self-Insurance Certificate***

By law, an employer can self-insure workers' compensation benefits if he can prove his solvency and financial ability to pay compensation to injured employees or other beneficiaries. The employer must file for the insurance commissioner's approval (1) security guaranteeing his workers' compensation obligation or (2) the self-insurance program

that provides benefits at least equal to those required in a workers' compensation insurance policy. Upon approval, the commissioner issues a compliance certificate that the employer can file with the compensation commissioner.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 15 Nay 0