



Senate

General Assembly

File No. 715

January Session, 2005

Substitute Senate Bill No. 1250

Senate, May 5, 2005

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th 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2 repealed and the following is substituted in lieu thereof (*Effective*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. The insurance company of any employer known to the

13 insurance company to be in violation of this subdivision shall report
 14 such known violation to the chairman of the Workers' Compensation
 15 Commission and the Chief State's Attorney.

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

25 Sec. 2. Subsection (b) of section 31-290d of the general statutes is
 26 repealed and the following is substituted in lieu thereof (*Effective July*
 27 *1, 2005*):

28 (b) The workers' compensation fraud unit shall submit a quarterly
 29 report detailing its activities to the chairman and the Advisory Board
 30 of the Workers' Compensation Commission and to the Insurance
 31 Commissioner. On or before December 1, 2005, and annually
 32 thereafter, the workers' compensation fraud unit shall submit a report
 33 to the joint standing committees of the General Assembly having
 34 cognizance of matters relating to insurance and labor about employer
 35 and employee workers' compensation fraud. Such report shall include,
 36 but not be limited to, the number of investigations, arrests, referrals,
 37 and prosecutions relating to such fraud, and recommendations for
 38 improving compliance with provisions of this chapter pertaining to
 39 claims for benefits, receipt or payment of benefits, or the insurance or
 40 self-insurance of liability.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	31-288(g)
Sec. 2	July 1, 2005	31-290d(b)

LAB *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 Any cost associated with the bill's reporting requirements would be minimal.

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 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.

Under the bill, insurance companies must report any known instances of employers providing fraudulent or misleading information about employee classification to the Workers' Compensation Commission chairman and the chief state's attorney.

The bill requires the workers' compensation fraud unit to report on employer and employee workers' compensation fraud by December 1, 2005, and annually thereafter, to the Insurance and Real Estate and Labor and Public Employees committees. The report must include the number of fraud investigations, arrests, referrals, and prosecutions. It must also include recommendations for improving compliance with

state laws concerning (1) claims for benefits, (2) receipt or payment of benefits, or (3) insuring or self-insuring liability.

EFFECTIVE DATE: October 1, 2005, except for the fraud unit's annual report requirement, which is effective July 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.

Legislative History

On April 15, the Senate referred the bill (File 193) to the Labor and Public Employees Committee, which added reporting requirements for insurance companies and the workers' compensation fraud unit.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 15 Nay 0

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 12 Nay 0