



House of Representatives

General Assembly

File No. 100

February Session, 2010

Substitute House Bill No. 5204

House of Representatives, March 23, 2010

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE JOINT ENFORCEMENT COMMISSION ON EMPLOYEE MISCLASSIFICATION.

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

1 Section 1. Section 31-69a of the 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) In addition to the penalties provided in this chapter and chapter
5 568, any employer, officer, agent or other person who violates any
6 provision of this chapter, chapter 563a, chapter 557 or subsection (g) of
7 section 31-288, as amended by this act, shall be liable to the Labor
8 Department for a civil penalty of three hundred dollars for each
9 violation of said chapters and for each violation of subsection (g) of
10 section 31-288, as amended by this act, and each day of such violation
11 shall constitute a separate offense, except that any person who violates
12 (1) a stop work order issued pursuant to subsection (c) of section 31-
13 76a, shall be liable to the Labor Department for a civil penalty of one

14 thousand dollars and each day of such violation shall constitute a
15 separate offense, and (2) any provision of section 31-12, 31-13 or 31-14,
16 subsection (a) of section 31-15 or section 31-18, 31-23 or 31-24 shall be
17 liable to the Labor Department for a civil penalty of six hundred
18 dollars for each violation of said sections.

19 (b) The Attorney General, upon complaint of the Labor
20 Commissioner, shall institute civil actions to recover the penalties
21 provided for under subsection (a) of this section. Any amount
22 recovered shall be deposited in the General Fund and credited to a
23 separate nonlapsing appropriation to the Labor Department, for other
24 current expenses, and may be used by the Labor Department to
25 enforce the provisions of chapter 557, chapter 563a, this chapter and
26 subsection (g) of section 31-288, as amended by this act, and to
27 implement the provisions of section 31-4.

28 Sec. 2. Subsection (g) of section 31-288 of the general statutes is
29 repealed and the following is substituted in lieu thereof (*Effective*
30 *October 1, 2010*):

31 (g) Any employer who (1) has failed to meet the requirements of
32 subsection (b) or (c) of section 31-284, or (2) with the intent to injure,
33 defraud or deceive any insurance company insuring the liability of
34 such employer under this chapter or the state of Connecticut because
35 of failure to pay workers' compensation assessments in accordance
36 with the provisions of section 31-345 or second injury fund
37 assessments in accordance with the provisions of section 31-354, (A)
38 knowingly misrepresents one or more employees as independent
39 contractors, or (B) knowingly provides false, incomplete or misleading
40 information to such company concerning the number of employees, for
41 the purpose of paying a lower premium on a policy obtained from
42 such company, shall be guilty of a class D felony and shall be subject to
43 a stop work order issued by the Labor Commissioner in accordance
44 with section 31-76a.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	31-69a
Sec. 2	<i>October 1, 2010</i>	31-288(g)

LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Labor Dept.	SF - Potential Revenue Gain	Significant	Significant

Note: SF=Special Fund (Non-appropriated)

Municipal Impact: None

Explanation

The bill expands the civil penalty to employers for various violations. This results in a potential significant¹ revenue gain to the non-appropriated account within the Department of Labor (DOL) set up to receive such funds.

Under current law, violators of the provisions pertaining to the bill are liable for a single \$300 civil penalty; the bill increases the penalty by providing that each day of the violation constitutes a separate offense. It is estimated that more than 500 violations per annum would be subject to the expansion of the civil penalty under the bill, a portion of which would occur over multiple days.² To the extent that the violations do occur over multiple days, there is a significant revenue gain.

The Out Years

The annualized revenue gain from fines would remain constant into

¹ The Office of Fiscal Analysis defines "significant" as any amount in excess of \$100,000 for the purposes of fiscal notes.

² For example, in FY 09 there were 172 stop work orders issued by DOL. According to the Division of Wage and Workplace Standards, the average length of such violation was 90 days. Under the bill, this would result in a revenue gain of approximately \$4.6 million.

the future as fine amounts are set by statute.

Sources: Division of Wage and Workplace Standards statistics

OLR Bill Analysis**sHB 5204*****AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE JOINT ENFORCEMENT COMMISSION ON EMPLOYEE MISCLASSIFICATION.*****SUMMARY:**

By law, any employer who misrepresents either the number of his employees or casts them as independent contractors to defraud or deceive an insurance company in order to pay lower workers' compensation insurance is (1) guilty of a class D felony and (2) subject to a stop work order. Under the bill, the same penalty would apply if the employer defrauded or deceived the state in the same way. Also the bill increases the penalty for this violation by specifying that each day of the violation constitutes a separate offense. Violators are liable to the Labor Department for a civil penalty of \$300.

The bill specifies that any employer who is fully insured for workers' compensation and fails to pay the required state assessments for (1) the administration of the Workers' Compensation Commission and (2) the administration and payment fund of the Second Injury Fund is guilty of a class D felony and subject to a stop work order. By law, a self-insured employer who fails to make the same assessments is already subject to these penalties.

EFFECTIVE DATE: October 1, 2010

BACKGROUND***Second Injury Fund (SIF)***

The SIF is a state-run, employer-funded program to provide workers' compensation to employees whose employers did not provide worker's compensation. It is administered by the state treasurer.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/09/2010)