



**State of Connecticut**  
DIVISION OF CRIMINAL JUSTICE

**TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE**

IN SUPPORT OF:

**H.B. No. 5075 (RAISED) AN ACT CONCERNING WORKERS' COMPENSATION**

JOINT COMMITTEE ON LABOR AND PUBLIC EMPLOYEES

February 16, 2016

The Division of Criminal Justice respectfully requests and recommends the Committee's JOINT FAVORABLE SUBSTITUTE Report for H.B. No. 5075, An Act Concerning Workers' Compensation. The substitute language that we propose would add a simple yet necessary reporting requirement the Workers' Compensation statutes.

The Division of Criminal Justice is the independent executive branch agency charged under the Connecticut Constitution with the investigation and prosecution of all criminal matters within the State of Connecticut. The Division is composed of the Office of the Chief State's Attorney and the Offices of the State's Attorneys for the 13 Judicial Districts within the state. Within the Office of the Chief State's Attorney are specialized units, including the Workers' Compensation Fraud Control Unit established pursuant to Section 31-290d of the General Statutes. This unit is responsible for conducting investigations into criminal violations of the Workers' Compensation statutes, including fraud committed by recipients of Workers' Compensation benefits and violations of Workers' Compensation requirements by employers.

The Division would respectfully request that the Office of the Chief State's Attorney, and more specifically the Workers' Compensation Fraud Control Unit, be added to the state agencies that are required to be notified of the imposition of fines in the event an employer does not comply with the requirements of Section 31-288. This section of the statutes provide for penalties for, among other things, noncompliance by employers with insurance requirements or defrauding a Workers' Compensation insurance carrier.

As now written, the Office of the State Treasurer's investigation unit can conduct an investigation on behalf of either the Second Injury Fund, the Workers' Compensation Commission or any commissioner upon their request when there is suspicion of non-compliance with required Workers' Compensation insurance coverage. If found, the investigator can fine the non-compliant entity and issue a citation requiring the person(s) and/or corporation to be present at a commissioner's hearing where they must prove they are properly insured. If the person(s) and/or corporation do not respond within 30 days, a default judgment enters and the

commissioner can assess fines of up to \$50,000. Once the fine is entered, the Workers' Compensation Commissioner notifies the Office of the State Treasurer and the Attorney General, and, if the fines are not paid, these agencies can begin civil action to enforce and collect the fines plus interest.

This scenario presents a problem for the Workers' Compensation Fraud Control Unit in that neither the unit nor the Chief State's Attorney are required to be notified, even though there are criminal penalties provided in subsections (f) and (g) of Section 31-288. Simply put, the Workers' Compensation Fraud Control Unit cannot perform its statutory duty to investigate and prosecute instances of Workers' Compensation fraud when it is not advised of the fraud in the first instance. In requesting notification of these instances of fraud, the Division is not attempting to interfere with the administrative and civil processes but is rather seeking notification so that it can determine whether criminal prosecution is warranted. Even if the Workers' Compensation Fraud Control Unit does not seek to prosecute anyone in connection with the particular violation about which it is notified, receipt of the information would be helpful in the event of future violations by the same employer or insurer.

We would respectfully suggest the following language:

Subsection (3) of section 31-288 of the general statutes is hereby repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(e) The chairman of the Workers' Compensation Commission shall notify the State Treasurer, **[and]** the Attorney General, and the worker's compensation fraud unit in the office of the chief state's attorney of the imposition of any penalty, the date it was imposed, the amount and whether there has been an appeal of said penalty. Any civil penalty order issued pursuant to subsection (c) or (d) of this section shall state that payment shall be made to the Second Injury Fund of the State Treasurer, and that failure to pay within ninety days may result in civil action to double the penalty. The State Treasurer shall collect any penalty owed, and if the penalty is not paid within ninety days, the State Treasurer shall notify the chairman of the Workers' Compensation Commission and the Attorney General so that civil action may be brought pursuant to section 31-289. Any appeal of a penalty assessed pursuant to the provisions of subsections (c) and (d) of this section shall be taken in accordance with the provisions of section 31-301. The chairman shall adopt regulations for the commissioners to use in setting fines which shall require the commissioners to take into account the nature of the employer's business and his number of employees.

H.B. No. 5075 appears to provide an appropriate vehicle for such an amendment and as such the Division would respectfully request that this notification provision be added to either this bill, or another bill the Committee deems appropriate. The Division thanks the Committee for your consideration of this request. We would be happy to provide any additional information the Committee requires or to answer any questions you might have.