

Regular Session, 2010

HOUSE BILL NO. 873

BY REPRESENTATIVE PATRICIA SMITH

WORKERS COMPENSATION: Provides relative to workers' compensation

1 AN ACT

2 To amend and reenact R.S. 23:1170(A), 1171.1(C)(1), 1172(A), 1172.1(C), and 1172.2(D),  
3 relative to workers' compensation coverage; to require an increase in penalties for  
4 employers who fail to secure coverage; to provide for all fines collected to be  
5 deposited in the Workers' Compensation Administrative Fund; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1170(A), 1171.1(C)(1), 1172(A), 1172.1(C), and 1172.2(D) are  
9 hereby amended and reenacted to read as follows:

10 §1170. Penalty for failure to secure workers' compensation insurance; assessment  
11 and collection

12 A. In addition to any other penalty prescribed by law, any employer who  
13 fails to secure compensation required by R.S. 23:1168 shall be liable for a civil  
14 penalty, to be assessed by the ~~secretary of labor~~ executive director or his designee,  
15 of not more than two hundred fifty dollars per employee for a first offense, and liable  
16 for a civil penalty of not more than five hundred dollars per employee for a second  
17 or subsequent offense. ~~However~~ ; however, the maximum civil penalty for a first  
18 offense shall not exceed ten thousand dollars for all related series of violations. All  
19 civil penalties collected shall be deposited in the Office of Workers' Compensation  
20 Administrative Fund established in R.S. 23:1291.1(E).

21 \* \* \*

1 §1171.1. Discontinuance of business; injunction; procedure

2 \* \* \*

3 C.(1) If at such hearing, it is determined that the employer is in violation of  
4 his obligation under R.S. 23:1168, the workers' compensation judge may fine the  
5 employer ~~up to ten thousand dollars~~ in the manner provided pursuant to R.S.  
6 23:1170(A) and shall order the employer to secure workers' compensation insurance  
7 and file evidence of coverage within ninety days of the order. Should the employer  
8 fail to file such evidence, the workers' compensation judge shall issue a cease and  
9 desist order prohibiting the employer from continuing its business operations until  
10 such time as the employer complies with R.S. 23:1168, and all fines issued are paid  
11 in full.

12 \* \* \*

13 §1172. Criminal penalties

14 A. Any employer who willfully fails to provide security for compensation  
15 required by R.S. 23:1168 shall be subject to a fine of ~~not more than ten thousand~~  
16 ~~dollars~~ up to two hundred fifty dollars per day that the employer willfully failed to  
17 provide security for compensation or imprisonment with or without hard labor for  
18 not more than one year, or both such fine and imprisonment. All fines collected shall  
19 be deposited in the Office of Workers' Compensation Administrative Fund  
20 established in R.S. 23:1291.1(E).

21 \* \* \*

22 §1172.1. Willful misrepresentation by employer; aid or abet; criminal  
23 penalties; civil immunity

24 \* \* \*

25 C. Whoever violates any provision of this Section shall be imprisoned, with  
26 or without hard labor, for not less than one year nor more than ten years, or fined ~~not~~  
27 ~~more than ten thousand dollars~~ up to two hundred fifty dollars per day that the  
28 employer willfully failed to provide security for compensation, or both. All fines

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 collected shall be deposited in the Office of Workers' Compensation Administrative

2 Fund established in R.S. 23:1291.1(E).

3 \* \* \*

4 §1172.2. Unlawful practices

5 \* \* \*

6 D. Whoever violates any provision of this Section shall be imprisoned, with

7 or without hard labor, for not less than one year nor more than ten years, or fined ~~not~~

8 ~~more than ten thousand dollars~~ up to two hundred fifty dollars per day that such

9 person's violation of any provision of this Section resulted in failure to properly

10 provide security for compensation, or both. All fines collected shall be deposited in

11 the Office of Workers' Compensation Administrative Fund established in R.S.

12 23:1291.1(E).

13 \* \* \*

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Patricia Smith

HB No. 873

**Abstract:** Provides for an increase in criminal penalties for employers who fail to secure workers' compensation coverage for their employees and those who willfully misrepresent that compensation has been provided. Also requires that all fines collected be deposited into the Office of Workers' Compensation Administrative Fund.

Present law provides that any employer who fails to secure workers' compensation coverage as required by present law shall be liable for civil penalties.

Present law provides a first offense penalty for an employer is \$250 per employee, second or subsequent offenses are \$500 per employee, and all related series offenses have a maximum civil penalty of \$10,000.

Proposed law provides for a maximum civil penalty of \$10,000 for a first offense.

Present law provides that under criminal penalties an employer who is in violation of securing workers' compensation may be fined not more than \$10,000.

Proposed law provides under criminal penalties employers who fail to provide workers' compensation coverage may be fined up to \$250 per day that the employer willfully failed to provide security for compensation. Also provides all fines collected will be deposited in the Office of Workers' Compensation Administrative Fund.

Present law provides an employer who willfully misrepresents in writing that he has provided workers' compensation coverage shall be fined not more than \$10,000.

Proposed law provides an employer who willfully misrepresents in writing that he has provided workers' compensation coverage may be fined up to \$250 per day that the employer willfully failed to provide compensation. Also provides that all fines collected will be deposited in the Office of Workers' Compensation Administrative Fund.

Present law provides that it is unlawful for a person to knowingly make a false statement or knowingly omit or conceal information to obtain workers' compensation coverage. Such actions are punishable by imprisonment, fine, or both.

Proposed law retains present law but provides that the fine shall be up to \$250 per day for the person's violation of present law and shall be deposited in the Office of Worker's Compensation Administrative Fund.

(Amends R.S. 23:1170(A),1171.1(C)(1),1172(A),1172.1(C), and 1172.2(D))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Labor and Industrial Relations to the original bill.

1. Made technical changes.
2. Restored present law provisions regarding the failure to secure workers' compensation insurance.
3. Provided for a change in civil penalties for first offenses.
4. Provided for an increase in criminal penalties and removed cap on amount of fine.
5. Provided for a fine of \$250 per day for employers who willfully misrepresent or knowingly make fraudulent or misleading oral or written statements that compensation has been provided.
6. Provided all fines collected shall be deposited in the Office of Workers' Compensation Administrative Fund.

#### House Floor Amendments to the engrossed bill.

1. Provided that penalties may be levied up to \$250 per day.