

SENATE BILL NO. 106

BY SENATORS RISER AND THOMPSON

1 AN ACT

2 To amend and reenact R.S. 23:1123, 1172.2(E), 1201(A), and to repeal R.S. 23:1201.1,
3 relative to workers' compensation; to provide for an examination of an injured
4 employee when certain disputes arise; to provide for the prompt reporting of certain
5 information relative to payment of workers' compensation premiums which may be
6 considered false, fraudulent, or misleading; to provide for payors and insurers to
7 make weekly indemnity payments by electronic funds transfer; to repeal provisions
8 requiring workers' compensation indemnity payments be mailed; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 23:1123, 1172.2(E), and 1201(A) are hereby amended and reenacted
12 to read as follows:

13 §1123. Disputes as to ~~physical~~ condition, **capacity to work, or current medical**
14 **treatment** of employee; examination under supervision of the
15 director

16 If any dispute arises as to the condition of the employee, **capacity to work,**
17 **or the current medical treatment for the employee,** the director, upon application
18 of any party, shall order an examination of the employee to be made by a medical
19 practitioner selected and appointed by the director. The medical examiner shall
20 report his conclusions from the examination to the director and to the parties and
21 such report shall be prima facie evidence of the facts therein stated in any subsequent
22 proceedings under this Chapter.

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§1172.2. Unlawful practices

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E.(1)(a) Any person, insurer, or self-insurance fund who has knowledge of or who believes that a false, fraudulent, or misleading statement is knowingly made or is knowingly omitted for the purpose of avoiding, delaying, or diminishing the amount of payment of any workers' compensation premium shall, within sixty days of notice of such statement or omission, send to the office of workers' compensation administration, on a form prescribed by the director, the information requested and such additional information as may be requested by the office of workers' compensation administration.

(b) The office of workers' compensation administration shall review such reports and select such acts of misrepresentation as, in its judgment, may require further investigation.

(c) The office of workers' compensation administration shall then cause an independent examination of the facts surrounding such acts to be made to determine the extent, if any, to which fraud, deceit, or intentional misrepresentation of any kind exists.

(d) The office of workers' compensation administration shall report any alleged violations of law which its investigations disclose to the appropriate licensing agency and prosecuting authorities having jurisdiction with respect to such violation.

(2) No person or entity acting without malice, fraudulent intent, reckless disregard for the truth, or bad faith, shall be subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature shall exist against such person or entity by virtue of the filing of reports or furnishing of other information, either orally or in writing, relative to a violation by any employer of the provisions of this Section.

~~(2)~~(3) The grant of immunity provided by this Subsection shall not abrogate or modify in any way any statutory or other privilege or immunity otherwise enjoyed by such person or entity.

~~(3)-(4)~~ Any person or entity entitled by this Subsection to immunity from civil liability shall also be entitled to an award of attorney fees and costs if they are the prevailing party in a civil suit and the party bringing the action was not substantially justified in doing so. For purposes of this Section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time it was initiated.

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§1201. Time and place of payment; failure to pay timely; failure to authorize;
penalties and attorney fees

A. **(1)** Payments of compensation under this Chapter shall be paid as near as may be possible, at the same time and place as wages were payable to the employee before the accident; however, when the employee is not living at the place where the wages were paid, or is absent therefrom, such payments shall be made by mail, upon the employee giving to the employer a sufficient mailing address. However, a longer interval, not to exceed one month, may be substituted by agreement without approval of the director. An interval of more than one month must be approved by the director.

(2) Notwithstanding the requirement to make payments by mail in Paragraph (1) of this Subsection, electronic transfer of funds, including but not limited to direct deposit or use of a debit card, is an appropriate method of payment of compensation under this Chapter. Where a payor or insurer elects to issue debit cards and makes weekly payments by way of electronic funds transfers, an injured worker represented by an attorney may elect to have his weekly indemnity check deposited directly into his attorney's trust account. Where such an election is made, the payor or insurer shall provide notice by way of email only to the injured worker's attorney containing a list of all claims and amounts included in the direct deposit within forty-eight hours of the direct deposit.

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Section 2. R.S. 23:1201.1 is hereby repealed.

1 Section 3. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____