

2016 Regular Session

SENATE BILL NO. 44

BY SENATOR GATTI

WORKERS' COMPENSATION. Provides for workers' compensation insurance premium reductions to certain employers. (8/1/16)

1 AN ACT

2 To enact R.S. 23:1105, relative to workers' compensation; to provide for workers'
3 compensation premiums; to provide for the recoupment of certain workers'
4 compensation benefits from certain third persons; to provide for a reduction in
5 workers' compensation premiums for certain employers; to provide for penalties; to
6 provide for attorney fees; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 23:1105 is hereby enacted to read as follows:

9 **§1105. Premium reduction for employer when moneys from third person are**
10 **recouped**

11 **A. If a suit or action is brought pursuant to this Subpart and the suit or**
12 **action results in a settlement or judgment whereby the employer's workers'**
13 **compensation insurer or group self-insurance fund recoups from a third person**
14 **at least forty percent of the workers' compensation benefits paid to, or on behalf**
15 **of, the employee or his dependents, the employer's workers' compensation**
16 **insurer or group self-insurance fund shall give such relief to the employer as**
17 **provided for in Subsection B of this Section.**

1 B. When the recoupment of the workers' compensation benefits has
2 occurred as provided for in Subsection A of this Section, the employer shall be
3 entitled to all of the following:

4 (1) The workers' compensation insurer or group self-insurance fund
5 shall adjust the premium rating for the employer so that the employer's
6 premium rating is not increased as a result of the accident which was caused,
7 in whole or in part, by the third person.

8 (2) All increased workers' compensation premiums paid by the
9 employer as a result of the accident which was caused, in whole or in part, by
10 the third person shall be returned to the employer within thirty days of the
11 receipt of the recouped funds from the third person by the workers'
12 compensation insurer or group self-insurance fund.

13 C. Failure to return the employer to the pre-accident premium rating
14 within thirty days of receipt of the recouped funds from the third person shall
15 result in penalties against the workers' compensation insurer or group
16 self-insurance fund to be paid to the employer in an amount equal to one and
17 one-half times the amount of the funds recouped from the third person plus any
18 attorney's fees incurred by the employer to enforce the retroactive reduced
19 premium rating.

20 D. Failure to return to the employer a refund of all increased premiums
21 paid as a result of the accident within thirty days of receipt of the recouped
22 funds from the third person shall result in penalties against the workers'
23 compensation insurer or group self-insurance fund to be paid to the employer
24 in an amount equal to one and one-half times the amount of the workers'
25 compensation premiums paid by the employer, which are attributable to the
26 accident, for a period not to exceed three years prior to the third person
27 settlement plus any attorney's fees incurred by the employer to enforce the
28 refund of the increased premiums.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

SB 44 Original

2016 Regular Session

Gatti

Present law provides that when an injury has occurred to an employee which is subject to the payment of workers' compensation benefits but such action was caused, in whole or in part, by a party who other than the employer or employee, (commonly referred to as a "third party" but referred to in the statute as "third person") who has a legal liability to pay damages, the employee may file a lawsuit in district court to recover damages for the injury.

Present law provides that when an injury occurs to an employee and a third party is liable, in whole or in part, the workers' compensation insurer or group self-insurance fund may file suit against the third party to recoup the workers' compensation benefits paid to the employee but the employer must notify the employee of the suit against the third party.

Present law provides that when an injury occurs to an employee and a third party is liable, in whole or in part, the employee may file suit against the third party for damages but must notify the workers' compensation insurer or group self-insurance fund when any workers' compensation benefits which have been paid to or on behalf of the injured worker.

Present law provides that if a settlement occurs or a judgment is obtained against the third party and the employee receives funds from the third party, the employer or insurer shall receive a dollar for dollar credit for workers' compensation benefits paid against the full amount paid in settlement or judgement, less attorney fees and costs paid by the employee in prosecution of the third party claim. Present law requires the employee to obtain written approval from the employer or workers' compensation insurer before such settlement or compromise is obtained by the employee.

Proposed law retains present law but provides that, if a suit or claim results in a settlement or judgment whereby the employer's workers' compensation insurer or group self-insurance fund recoups at least 40% of their statutory lien from a third party, the employer's workers' compensation insurer or group self-insurance fund shall do all of the following as it relates to the employer:

1. The workers' compensation insurer or group self-insurance fund shall adjust the premium rating (i.e., the dollar amount charged for premiums) for the employer so that the employer's premium rating is not increased as a result of the accident which was caused, in whole or in part, by the third party.
2. The workers' compensation insurer or group self-insurance fund shall refund all increased workers' compensation premiums paid by the employer as a result of the accident which was caused, in whole or in part, by the third party within 30 days of the receipt of the recouped funds by the workers' compensation insurer or group self-insurance fund.

Proposed law provides that the failure to return the employer to the pre-accident premium rating (i.e., the dollar amount charged for premiums) within 30 days of receipt of the recouped funds from the third person will result in penalties equal to 1½ times the amount of the statutory lien proceeds recouped from the third party plus any attorney's fees incurred by the employer to enforce the retroactive reduced premium rating.

Proposed law provides that the failure to return to the employer a refund of all increased premiums paid as a result of the accident within 30 days of receipt of recouped funds shall result in penalties equal to 1½ times the amount of the workers' compensation premiums paid by the employer, which are attributable to the accident, for the time period not to exceed

3 years prior to the third party settlement plus any attorney's fees incurred by the employer to enforce the refund of increased premiums.

Effective August 1, 2016.

(Adds R.S. 23:1105)