

Regular Session, 2010

HOUSE BILL NO. 1138

BY REPRESENTATIVE PONTI

WORKERS COMPENSATION: Provides relative to workers' compensation and the transfer of indemnity payments by electronic funds transfer

1 AN ACT

2 To amend and reenact R.S. 23:1123, 1172.2(E), and 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 require payors and insurers to make
7 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 director

15 If any dispute arises as to the condition of the employee, capacity to work,
16 or current medical treatment for the employee, the director, upon application of any
17 party, shall order an examination of the employee to be made by a medical
18 practitioner selected and appointed by the director. The medical examiner shall
19 report his conclusions from the examination to the director and to the parties and

1 such report shall be prima facie evidence of the facts therein stated in any subsequent
2 proceedings under this Chapter.

3 * * *

4 §1172.2 Unlawful Practices

5 * * *

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

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

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

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

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

1 a list of all claims and amounts included in the direct deposit within forty-eight hours
2 of the direct deposit.

3 * * *

4 Section 2. R.S. 23:1201.1 is hereby repealed in its entirety.

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

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)]

Ponti

HB No. 1138

Abstract: Provides that an examination of an injured employee shall be performed when certain disputes arise and provides for the prompt reporting of certain information relative to payment of workers' compensation premiums which may be considered false, fraudulent, or misleading. Also provides payors and insurers may make weekly indemnity payments by electronic funds transfer and repeals provisions requiring workers' compensation indemnity payments be mailed.

Present law provides for the duty of the director to order an independent medical examination by a medical practitioner selected and appointed by the director when a dispute arises as to the condition of an injured employee.

Proposed law retains present law and further requires the director, upon application of any party, to order an independent medical examination when a dispute arises as to the injured employee's capacity to work or his current medical treatment.

Present law provides that no person or entity acting without malice, fraudulent intent, reckless disregard for the truth, or bad faith shall be liable to another by virtue of the filing of reports or furnishing other information relative to a violation by an employer of the provisions of the present law.

Proposed law retains present law but places an affirmative burden on any person, insurer, or member of a self-insurance fund who believes that a false, fraudulent, or misleading statement has been knowingly made or has been knowingly omitted with the purpose of affecting the payment of any workers' compensation premium.

Proposed law further requires that such person, insurer or member of a self-insurance fund report such statement or omission within 60 days to the office of workers' compensation administration, at which time the office shall review such reports and determine which reports merit further investigation.

Proposed law requires the office to provide an independent examination of the facts surrounding the report. Any alleged violations of law disclosed by an independent examination of the facts shall be reported to the appropriate licensing agency and the proper prosecuting authority.

Present law states that workers' compensation payments shall be made by mail.

Proposed law retains the mailing of payments as permissive, but allows the electronic transfer of funds by methods including but not limited to direct deposit and debit cards.

Proposed law provides that if the payor or insurer elects to issue debit cards, the injured worker may opt to have his weekly indemnity payment paid directly into his attorney's trust account. Proposed law provides that if such an election is made, the payor or insurer shall notify the attorney of the deposit and shall list all claims and amounts included in the deposit within 48 hours of each deposit.

Present law requires that indemnity payments be mailed to the recipient.

Proposed law repeals that mailing requirement.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 23:1123, 1172.2(E), and 1201(A); Repeals R.S. 23:1201.1)