

1 ENGROSSED SENATE
2 BILL NO. 1013

By: Daniels of the Senate

and

Kannady of the House

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5
6 An Act relating to workers' compensation compliance
7 investigations; amending 51 O.S. 2011, Section
8 24A.12, which relates to litigation and investigatory
9 files; authorizing Workers' Compensation Commission
10 to keep certain files confidential; amending Sections
11 40, as amended by Section 16, Chapter 476, O.S.L.
12 2019, and 105, Chapter 208, O.S.L. 2013 (85A O.S.
13 Supp. 2020, Sections 40 and 105), which relate to
14 failure to secure compensation and employees as
15 witnesses; authorizing Workers' Compensation
16 Commission to keep certain files confidential;
17 construing provisions; updating statutory reference;
18 and declaring an emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 51 O.S. 2011, Section 24A.12, is
21 amended to read as follows:

22 Section 24A.12. Except as otherwise provided by state or local
23 law, the Attorney General of the State of Oklahoma and agency
24 attorneys authorized by law, the Workers' Compensation Commission,
the office of the district attorney of any county of the state, and
the office of the municipal attorney of any municipality may keep
its litigation files and investigatory reports confidential.

1 SECTION 2. AMENDATORY Section 40, Chapter 208, O.S.L.
2 2013, as amended by Section 16, Chapter 476, O.S.L. 2019 (85A O.S.
3 Supp. 2020, Section 40), is amended to read as follows:

4 Section 40. A. 1. Any employer who fails to secure
5 compensation required under ~~this act~~ the Administrative Workers'
6 Compensation Act, upon conviction, shall be guilty of a misdemeanor
7 and subject to a fine of up to Ten Thousand Dollars (\$10,000.00) to
8 be deposited in the Workers' Compensation Commission Revolving Fund.

9 2. This subsection shall not affect any other liability of the
10 employer under ~~this act~~ the Administrative Workers' Compensation
11 Act.

12 B. 1. Whenever the Workers' Compensation Commission has reason
13 to believe that any employer required to secure the payment of
14 compensation under ~~this act~~ the Administrative Workers' Compensation
15 Act has failed to do so, the Commission shall serve on the employer
16 a proposed judgment declaring the employer to be in violation of
17 ~~this act~~ the Administrative Workers' Compensation Act and containing
18 the amount, if any, of the civil penalty to be assessed against the
19 employer under paragraph 5 of this subsection.

20 2. a. An employer may contest a proposed judgment of the
21 Commission issued under paragraph 1 of this subsection
22 by filing with the Commission, within twenty (20) days
23 of receipt of the proposed judgment, a written request
24 for a hearing.

1 b. The request for a hearing does not need to be in any
2 particular form but shall specify the grounds on which
3 the person contests the proposed judgment, the
4 proposed assessment, or both.

5 c. If a written request for hearing is not filed with the
6 Commission within the time specified in subparagraph a
7 of this paragraph, the proposed judgment, the proposed
8 penalty, or both, shall be a final judgment of the
9 Commission and shall not be subject to further review
10 by any court, except if the employer shows good cause
11 why it did not timely contest the judgment or penalty.

12 d. A proposed judgment by the Commission under this
13 section shall be prima facie correct, and the burden
14 is on the employer to prove that the proposed judgment
15 is incorrect.

16 3. a. If the employer alleges that a carrier has contracted
17 to provide it workers' compensation insurance coverage
18 for the period in question, the employer shall include
19 the allegation in its request for hearing and shall
20 name the carrier.

21 b. The Commission shall promptly notify the carrier of
22 the employer's allegation and of the date of hearing.

23 c. The carrier shall promptly, and no later than five (5)
24 days before the hearing, respond in writing to the

1 employer's allegation by providing evidence of
2 coverage for the period in question or by
3 affirmatively denying the employer's allegation.

4 4. Hearings under this section shall be procedurally conducted
5 as provided in Sections 69 through 78 of this title.

6 5. The Commission may assess a fine against an employer who
7 fails to secure the payment of compensation in an amount up to One
8 Thousand Dollars (\$1,000.00) per day of violation payable to the
9 Workers' Compensation Commission Revolving Fund, not to exceed a
10 total of Fifty Thousand Dollars (\$50,000.00) for the first
11 violation.

12 6. If an employer fails to secure the payment of compensation
13 or pay any civil penalty assessed against the employer after a
14 judgment issued under this section has become final by operation of
15 law or on appeal, the Commission may petition the Oklahoma County
16 District Court or the district court of the county where the
17 employer's principal place of business is located for an order
18 enjoining the employer from engaging in further employment until
19 such time as the employer secures the payment of compensation or
20 makes full payment of all civil penalties.

21 7. Upon any penalty becoming final under this section, the
22 Commission may institute collection proceedings against any assets
23 of the employer independently or in district court including, but
24 not limited to, an asset hearing, garnishment of income and wages,

1 judgment lien, or an intercept of an income tax refund consistent
2 with Section 205.2 of Title 68 of the Oklahoma Statutes.

3 8. Information subject to subsection A or B of Section 4-508 of
4 Title 40 of the Oklahoma Statutes may be disclosed to the employees
5 of the Commission for purposes of investigation and enforcement of
6 workers' compensation coverage requirements pursuant to this title,
7 and such information shall be admissible in any hearing before an
8 administrative law judge of the Commission.

9 9. Litigation files and investigatory reports of the Commission
10 arising from enforcement of the provisions of this section shall be
11 confidential pursuant to Section 24A.12 of Title 51 of the Oklahoma
12 Statutes.

13 SECTION 3. AMENDATORY Section 105, Chapter 208, O.S.L.
14 2013 (85A O.S. Supp. 2020, Section 105), is amended to read as
15 follows:

16 Section 105. A. No employee of the Workers' Compensation
17 Commission shall be competent to testify on any matter concerning
18 any information the employee has received through the performance of
19 the employee's duties under the provisions of ~~this act~~ the
20 Administrative Workers' Compensation Act; provided, however, such
21 provision shall not be construed to prohibit testimony by an
22 attorney of the Compliance Division of the Commission or an
23 investigator of the Division called to provide testimony by the
24 attorney.

1 B. The commissioners and employees of the Commission shall not
2 solicit employment for any attorney or physician nor shall they
3 recommend or refer any claimant or employer to an attorney or
4 physician. If any employee of the Commission makes such a
5 solicitation, recommendation or reference, that person, upon
6 conviction, shall be guilty of a misdemeanor punishable, for each
7 offense, by a fine of not more than One Thousand Dollars (\$1,000.00)
8 or by imprisonment in the county jail not to exceed one (1) year, or
9 by both such fine and imprisonment. The Commission shall
10 immediately terminate the employment of any employee who is guilty
11 of such solicitation, recommendation or reference. A commissioner
12 guilty of such solicitation, recommendation or reference shall be
13 subject to removal from office.

14 C. No administrative law judge shall engage in any ex parte
15 communication with any party to an action pending before the
16 Commission or with any witness or medical provider regarding the
17 merits of a specific matter pending before the judge for resolution.
18 Any violation of this provision shall subject the judge to
19 disqualification from the action or matter upon presentation of an
20 application for disqualification.

21 SECTION 4. It being immediately necessary for the preservation
22 of the public peace, health or safety, an emergency is hereby
23 declared to exist, by reason whereof this act shall take effect and
24 be in full force from and after its passage and approval.

