

1 H.743

2 Introduced by Representatives O'Sullivan of Burlington and Hill of Wolcott

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; policies; homemaker and companion
6 services; compensation funds; severe injuries

7 Statement of purpose of bill as introduced: This bill proposes to require
8 workers' compensation insurance carriers to offer short-term and seasonal
9 policies and to require the Commissioner of Financial Regulation to direct the
10 National Council on Compensation Insurance to create a new workers'
11 compensation class code for individuals providing homemaker and companion
12 services; to create a fund to reimburse a portion of the workers' compensation
13 payments made for severe injuries sustained by workers in the nonmechanized
14 logging industry; and to require the Commissioner of Financial Regulation to
15 study the feasibility of creating a fund to reimburse a portion of the workers'
16 compensation payments made for severe injuries sustained by employees of
17 small employers in high risk industries.

18 An act relating to workers' compensation

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 21 V.S.A. § 687 is amended to read:

3 § 687. SECURITY FOR COMPENSATION

4 * * *

5 (e)(1) All insurance carriers authorized to write workers' compensation
6 insurance coverage in Vermont shall make available, at the written request of
7 the employer, a workers' compensation insurance rate that contains a
8 deductible provision that binds the employer to reimburse the workers'
9 compensation insurer for at least the first \$500.00 of benefits, medical or
10 indemnity, due to an injured employee. Claims shall be adjusted and paid by
11 the insurer, and the employer shall reimburse the insurer for the amount of the
12 deductible.

13 (2)(A) All insurance carriers authorized to write workers' compensation
14 insurance coverage in Vermont shall:

15 (i) offer employers the option of purchasing either annual, semi-
16 annual, or quarterly insurance policies; and

17 (ii) in addition to paying the estimated premium for the policy in
18 full at the time of application, offer employers the option of paying the
19 estimated premium for the policy by either:

1 (I) paying a deposit of not more than 50 percent of the
2 estimated premium at the time of application and paying the remainder of the
3 premium in equal monthly installments over the term of the policy; or

4 (II) paying monthly installments for the premium due on an
5 employer's actual payroll each month; or

6 (III) both.

7 (B) The Commissioner of Financial Regulation, in consultation with
8 the Commissioner of Labor, shall adopt rules as necessary to implement this
9 subdivision (2).

10 Sec. 2. CREATION OF NEW WORKERS' COMPENSATION CLASS

11 CODE; HOMEMAKER AND COMPANION SERVICES

12 On or before July 15, 2018, the Commissioner of Financial Regulation shall
13 direct the National Council on Compensation Insurance to create a new
14 workers' compensation class code for individuals who are employed directly
15 by an elder or an individual who is convalescing, acutely or chronically ill, or
16 experiencing a physical or mental disability, and who provide homemaker and
17 companion services to the employer while physically assisting in activities of
18 daily living, with the work occurring principally inside the employer's
19 residence. The new class code shall be based upon NCCI class code 8872 for
20 New Hampshire, and shall be separate and distinct from NCCI class code 8835
21 for Vermont, which shall continue to apply to employees of health care

1 agencies and businesses who provide similar homemaker and companion
2 services. The new class code shall apply to all workers' compensation policies
3 in Vermont that are obtained or renewed on or after January 1, 2019.

4 Sec. 3. 8 V.S.A. chapter 117, subchapter 3 is added to read:

5 Subchapter 3. Logging Industry Compensation Special Fund

6 § 4381. LOGGING INDUSTRY COMPENSATION SPECIAL FUND

7 (a) The Logging Industry Compensation Special Fund is established
8 pursuant to 32 V.S.A. chapter 7, subchapter 5. The monies in the Fund shall
9 be used by the Commissioner of Financial Regulation to reimburse workers'
10 compensation insurance carriers for a portion of the claims payments made for
11 severe injuries sustained by workers in the nonmechanized logging industry as
12 provided pursuant to section 4382 of this subchapter. The Fund shall consist
13 of contributions from employers at a rate determined pursuant to subsection (b)
14 of this section. The revenue from the contributions shall be credited to the
15 Fund, except that necessary costs incurred for the administration of the Fund
16 shall be withheld and credited to the General Fund. Interest earned on Fund
17 balances shall be credited to the Fund.

18 (b)(1) Annually, the General Assembly shall establish contribution rates as
19 a percentage of direct calendar year premiums for workers' compensation
20 insurance and of workers' compensation losses incurred by self-insured
21 employers and nonprofit corporations authorized pursuant to 21 V.S.A. § 687a.

1 The rates shall be set to generate aggregate contributions in an amount equal to
2 175 percent of the total disbursements made from the Fund during the
3 preceding calendar year, less the amount of net assets in excess of \$200,000.00
4 in the Fund on December 31 of the preceding calendar year.

5 (2)(A) The portion of the contributions allocated to self-insured
6 employers and nonprofit corporations authorized pursuant to 21 V.S.A. § 687a
7 shall equal the total paid losses of all self-insured employers and nonprofit
8 corporations authorized pursuant to 21 V.S.A. § 687a for the preceding
9 calendar year divided by the total paid workers' compensation losses during
10 the preceding calendar year.

11 (B) The portion of the contributions allocated to employers that have
12 obtained workers' compensation insurance through an insurance carrier shall
13 equal the total paid losses of all workers' compensation insurance carriers for
14 the preceding calendar year divided by the total paid workers' compensation
15 losses during the preceding calendar year.

16 (3) An employer that has stopped being a self-insured employer shall
17 remain liable for contributions due on any losses paid.

18 § 4382. REIMBURSEMENT OF CLAIMS PAYMENTS FOR SEVERE

19 INJURIES

20 (a)(1) If a workers' compensation insurance carrier, self-insured employer,
21 or nonprofit corporation authorized pursuant to 21 V.S.A. § 687a provides

1 compensation to an employee for a disability or death arising out of and in the
2 course of employment in the nonmechanized logging industry, the workers'
3 compensation insurance carrier, self-insured employer, or nonprofit
4 corporation shall be reimbursed from the Logging Industry Compensation
5 Special Fund for all compensation paid in excess of \$25,000.00 or 104 weeks
6 of compensation, whichever is greater.

7 (2) The Fund shall not reimburse the workers' compensation insurance
8 carrier, self-insured employer, or nonprofit corporation for the cost of benefits
9 or compensation provided pursuant to 21 V.S.A. §§ 632, 640, and 641, and any
10 interest, costs, or attorney's fees awarded pursuant to 21 V.S.A. §§ 664, 675,
11 and 678.

12 (b) A claim for reimbursement shall be filed with the Commissioner of
13 Financial Regulation within one year from the date on which the right to
14 reimbursement accrued. After a workers' compensation insurance carrier, self-
15 insured employer, or nonprofit corporation has established its right to
16 reimbursement with respect to a claim, the Commissioner shall promptly pay
17 the amount of reimbursement due every six months upon receiving
18 documentation of the amount from the workers' compensation insurance
19 carrier, self-insured employer, or nonprofit corporation.

1 § 4383. ANNUAL REPORT

2 (a) Notwithstanding 2 V.S.A. § 20(d), on or before January 15 of each year,
3 the Commissioner of Financial Regulation shall submit to the House
4 Committee on Commerce and Economic Development and the Senate
5 Committee on Finance a written report regarding the status of the Logging
6 Industry Compensation Special Fund that includes the following information:

7 (1) a detailed statement of the Fund's assets and liabilities;

8 (2) a detailed statement of the Fund's revenues and expenses;

9 (3) a detailed statement of the Fund's cash flow;

10 (4) any information relevant to the financial accounting and operations
11 of the Fund;

12 (5) an estimate of future liability of the Fund for payment of existing
13 claims;

14 (6) a summary of liability assumed by the Fund during the preceding
15 calendar year; and

16 (7) the total cost per claim, including the cost per active claim and cost
17 per closed claim.

18 (b) The information contained in the annual report shall not include any
19 personally identifiable information.

1 § 4384. LOSS PREVENTION AND SAFETY TRAINING

2 An employer whose liability is limited by reimbursement from the Logging
3 Industry Compensation Special Fund shall be required to participate in the
4 Logger Education to Advance Professionalism program or a comparable safety
5 education and training program approved by the Commissioner of Financial
6 Regulation in consultation with the Commissioner of Labor.

7 § 4385. RULEMAKING

8 The Commissioner of Financial Regulation shall adopt rules as necessary to
9 implement the provisions of this subchapter.

10 Sec. 4. FEASIBILITY OF CREATING COMPENSATION FUND; SMALL
11 CONTRACTORS IN HIGH RISK OCCUPATIONS; REPORT

12 (a) The Commissioner of Financial Regulation, in consultation with the
13 Commissioner of Labor, the Secretary of Agriculture, Food and Markets, the
14 Commissioner of Forests, Parks and Recreation, the National Council on
15 Compensation Insurance, and other interested stakeholders, shall examine the
16 feasibility of creating one or more compensation funds modeled on the
17 Logging Industry Compensation Special Fund for the high risk industries and
18 occupations identified in the report prepared pursuant to 2017 Acts and
19 Resolves No. 77, Sec. 11 (Act 77 Report) and 2017 Acts and Resolves No. 80,
20 Sec. 18 (Act 80 Report). In particular, the Commissioner shall:

1 (1) study the feasibility of creating a separate compensation fund for
2 each industry or occupation identified in the Act 77 Report and the Act 80
3 Report;

4 (2) study the feasibility of creating compensation funds for groups of
5 related industries and occupations identified in the Act 77 Report and the
6 Act 80 Report; and

7 (3) model the potential impact on workers' compensation premiums and
8 costs from the creation of compensation funds for a single industry or
9 occupation and for related groups of industries and occupations.

10 (b) On or before January 15, 2019, the Commissioner of Financial
11 Regulation shall submit a written report to the House Committee on Commerce
12 and Economic Development and the Senate Committee on Finance regarding
13 his or her findings and any recommendations for legislative action related to
14 the creation of additional compensation funds for the industries and
15 occupations studied.

16 Sec. 5. EFFECTIVE DATES

17 (a) This section and Sec. 2 shall take effect on passage.

18 (b) The remaining sections shall take effect on July 1, 2018.