
By: **Delegates Simmons, Feldman, and McHale**

Introduced and read first time: February 7, 2005

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Uninsured Employers - Penalties**

3 FOR the purpose of increasing certain penalties for an employer who fails to pay, or
4 secure payment of, certain compensation under workers' compensation law;
5 requiring the Uninsured Employers' Fund to file a statement of charges in
6 District Court against an employer for an allegation of certain violations unless
7 certain conditions are met; requiring the Fund to include certain information in
8 its annual report submitted to the Governor; and generally relating to
9 uninsured employers under workers' compensation law.

10 BY repealing and reenacting, with amendments,
11 Article - Labor and Employment
12 Section 9-1107 and 9-1108
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2004 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Labor and Employment**

18 9-1107.

19 (a) An employer who self insures under § 9-405 of this title or participates in
20 a governmental self-insurance group under § 9-404 of this subtitle and fails to apply
21 to the Commission for approval of the self-insurance plan of the employer or
22 governmental self-insurance group in accordance with § 9-403 of this subtitle is
23 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or
24 imprisonment not exceeding 1 year or both.

25 (b) An employer who is subject to this title and fails to secure payment of
26 compensation in accordance with § 9-402 of this title or fails to pay an award of
27 compensation is guilty of a misdemeanor and on conviction is subject to a fine not
28 exceeding [\$5,000] \$10,000 or imprisonment not exceeding [1 year] 5 YEARS or both.

1 (C) (1) THE UNINSURED EMPLOYERS' FUND SHALL FILE A STATEMENT OF
2 CHARGES IN DISTRICT COURT AGAINST AN EMPLOYER WHO IS ALLEGED TO HAVE
3 COMMITTED A VIOLATION UNDER SUBSECTION (B) OF THIS SECTION, UNLESS THE
4 UNINSURED EMPLOYERS' FUND:

5 (I) DETERMINES THAT IT IS NOT IN THE PUBLIC INTEREST TO FILE
6 A STATEMENT OF CHARGES AGAINST THE EMPLOYER;

7 (II) CERTIFIES IN WRITING THE REASONS FOR ITS
8 DETERMINATION UNDER ITEM (1) OF THIS PARAGRAPH; AND

9 (III) KEEPS A COPY OF THE WRITTEN CERTIFICATION ON FILE AND
10 MAKES THE COPY AVAILABLE FOR PUBLIC INSPECTION.

11 (2) THE UNINSURED EMPLOYERS' FUND SHALL STATE IN ITS ANNUAL
12 REPORT SUBMITTED TO THE GOVERNOR UNDER § 10-202 OF THIS ARTICLE:

13 (I) THE NUMBER OF EMPLOYERS ALLEGED TO HAVE COMMITTED
14 A VIOLATION UNDER SUBSECTION (B) OF THIS SECTION; AND

15 (II) THE NUMBER OF STATEMENTS OF CHARGES FILED IN DISTRICT
16 COURT AGAINST EMPLOYERS ALLEGED TO HAVE COMMITTED A VIOLATION UNDER
17 SUBSECTION (B) OF THIS SECTION.

18 [(c)] (D) If the employer is a corporation, the officer of the corporation who has
19 responsibility for the general management of the corporation in the State is subject to
20 the fine and imprisonment specified in subsection (a) or (b) of this section.

21 [(d)] (E) (1) A fine imposed on an employer under this section shall be:

22 (i) paid to the State Treasury and credited to the Commission; and

23 (ii) used to pay, wholly or partly, an award made against the
24 employer by the Commission.

25 (2) A disbursement under this subsection shall be made in the same
26 manner as a disbursement of other money of the Commission.

27 (3) Any part of the fine that is not required to pay an award shall be
28 transferred to the General Fund of the State.

29 [(e)] (F) A court may remit a penalty only if the employer who is in default:

30 (1) secures payment of compensation in accordance with § 9-402 of this
31 title; and

32 (2) pays or secures payment of all compensation and other benefits
33 awarded against the employer under this title.

1 9-1108.

2 (a) An employer who fails to secure payment of compensation in accordance
3 with § 9-402 of this title that will be in force on the date a cancellation of a contract
4 of workers' compensation insurance becomes effective is guilty of a misdemeanor and
5 on conviction is subject to a fine not exceeding [\$5,000] \$10,000 or imprisonment not
6 exceeding [1 year] 5 YEARS or both.

7 (b) If the employer is a corporation, the officer of the corporation who has
8 responsibility for the general management of the corporation in the State is subject to
9 the fine and imprisonment specified in subsection (a) of this section.

10 (c) A fine imposed against and collected from an employer under this section
11 shall be paid into the Uninsured Employers' Fund.

12 (D) (1) THE UNINSURED EMPLOYERS' FUND SHALL FILE A STATEMENT OF
13 CHARGES IN DISTRICT COURT AGAINST AN EMPLOYER WHO IS ALLEGED TO HAVE
14 COMMITTED A VIOLATION UNDER THIS SECTION UNLESS THE UNINSURED
15 EMPLOYERS' FUND:

16 (I) DETERMINES THAT IT IS NOT IN THE PUBLIC INTEREST TO FILE
17 A STATEMENT OF CHARGES AGAINST THE EMPLOYER;

18 (II) CERTIFIES IN WRITING THE REASONS FOR ITS
19 DETERMINATION IN ITEM (I) OF THIS PARAGRAPH; AND

20 (III) KEEPS A COPY OF THE WRITTEN CERTIFICATION ON FILE AND
21 MAKES THE COPY AVAILABLE FOR PUBLIC INSPECTION.

22 (2) THE UNINSURED EMPLOYERS' FUND SHALL INCLUDE IN ITS ANNUAL
23 REPORT SUBMITTED TO THE GOVERNOR UNDER § 10-320 OF THIS ARTICLE:

24 (I) THE NUMBER OF EMPLOYERS ALLEGED TO HAVE COMMITTED
25 A VIOLATION UNDER THIS SECTION; AND

26 (II) THE NUMBER OF STATEMENTS OF CHARGES FILED IN DISTRICT
27 COURT AGAINST EMPLOYERS ALLEGED TO HAVE COMMITTED A VIOLATION UNDER
28 THIS SECTION.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2005.