
By: **Delegates Simmons, Feldman, and McHale**
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Assigned to: Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
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CHAPTER _____

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; requiring the Fund to submit a
9 certain report to certain committees of the General Assembly on or before a
10 certain date; and generally relating to uninsured employers under workers'
11 compensation law.

12 BY repealing and reenacting, with amendments,
13 Article - Labor and Employment
14 Section 9-1107 and 9-1108
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2004 Supplement)

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

19 **Article - Labor and Employment**

20 9-1107.

21 (a) An employer who self insures under § 9-405 of this title or participates in
22 a governmental self-insurance group under § 9-404 of this subtitle and fails to apply
23 to the Commission for approval of the self-insurance plan of the employer or

1 governmental self-insurance group in accordance with § 9-403 of this subtitle is
2 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or
3 imprisonment not exceeding 1 year or both.

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

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

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

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

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

18 (2) THE UNINSURED EMPLOYERS' FUND SHALL STATE IN ITS ANNUAL
19 REPORT SUBMITTED TO THE GOVERNOR UNDER ~~§ 10-202~~ § 10-320 OF THIS ARTICLE:

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

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

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

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

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

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

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

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

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

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

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

5 9-1108.

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

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

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

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

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

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

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

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

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

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

33 SECTION 2. AND BE IT FURTHER ENACTED, That, in addition to the annual
34 report submitted by the Uninsured Employers Fund to the Governor, on or before
35 December 1, 2006, the Fund shall submit a report, in accordance with § 2-1246 of the
36 State Government Article, to the House Economic Matters Committee and the Senate
37 Finance Committee that includes:

1 (1) information on the number of employers alleged to have committed a
2 violation under § 9-1107 or § 9-1108 of the Labor and Employment Article, as
3 enacted by Section 1 of this Act;

4 (2) information on the number of statements of charges filed in District
5 Court against employers alleged to have committed a violation under § 9-1107 or §
6 9-1108 of the Labor and Employment Article, as enacted by Section 1 of this Act;

7 (3) the estimated fiscal impact on the Uninsured Employers Fund
8 caused by any violation of § 9-1107 or § 9-1108 of the Labor and Employment Article,
9 as enacted by Section 1 of this Act;

10 (4) observations and comments concerning the implementation of this
11 Act; and

12 (5) recommendations to improve the enforcement of the provisions of
13 Title 9, Subtitle 11 of the Labor and Employment Article.

14 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
15 effect October 1, 2005.