

SENATE BILL 216

K1

(PRE-FILED)

4lr0055
CF 4lr0056

By: **Chair, Finance Committee (By Request – Departmental – Uninsured Employers’ Fund)**

Requested: September 10, 2023

Introduced and read first time: January 10, 2024

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2024

CHAPTER _____

1 AN ACT concerning

2 **Workers’ Compensation – Failure to Insure – Penalties**

3 FOR the purpose of altering the penalties for an employer’s failure to secure required
4 workers’ compensation insurance or comply with an order of the State Workers’
5 Compensation Commission regarding an employer’s failure to secure required
6 workers’ compensation insurance; and generally relating to penalties under workers’
7 compensation law.

8 BY repealing and reenacting, with amendments,
9 Article – Labor and Employment
10 Section 9–407
11 Annotated Code of Maryland
12 (2016 Replacement Volume and 2023 Supplement)

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

15 **Article – Labor and Employment**

16 9–407.

17 (a) If an employer fails to secure compensation for all covered employees of the
18 employer as required by § 9–402 of this subtitle, the Commission shall:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (1) issue an order directing the employer to attend a hearing to show cause
2 as to why the employer should not be:

3 (i) required to secure compensation for all covered employees of the
4 employer;

5 (ii) found in violation of § 9–402 of this subtitle; and

6 (iii) assessed a penalty for noncompliance with § 9–402 of this
7 subtitle; and

8 (2) set the hearing as soon as practicable.

9 (b) If, following the hearing, the Commission finds that the employer failed to
10 secure compensation for all covered employees of the employer as required by § 9–402 of
11 this subtitle, the Commission shall:

12 (1) order the employer to:

13 (i) secure and maintain insurance for all covered employees of the
14 employer through an authorized insurer; and

15 (ii) submit proof of insurance coverage to the Commission; and

16 (2) order the employer to pay a penalty ~~not to exceed \$10,000~~ **OF \$25,000**
17 to the Uninsured Employers' Fund.

18 (c) (1) If an employer fails to comply with an order to insure with an
19 authorized insurer issued under subsection (b) of this section or under § 9–404(j) or §
20 9–405(f) of this subtitle, within 30 days after the Commission issues the order, the
21 Commission shall set a hearing as soon as practicable.

22 (2) If, following the hearing, the Commission finds that the employer failed
23 to comply with an order issued under subsection (b)(1) of this section, the Commission may
24 order the employer to pay a penalty ~~not to exceed \$10,000~~ **OF \$25,000** to the Uninsured
25 Employers' Fund.

26 (d) (1) An employer's failure to pay a penalty under this section constitutes a
27 default in payment of compensation and judgment shall be entered as in a case of default
28 in payment of compensation.

29 (2) (i) A penalty that is payable under this section is a lien against the
30 assets of the employer that is liable for the penalty.

31 (ii) A lien under subparagraph (i) of this paragraph is subordinate to
32 claims for unpaid wages and prior recorded liens.

1 (3) The Uninsured Employers' Fund may bring a civil action to collect any
2 penalty ordered under this section or any assessment ordered under Subtitle 10 of this
3 article.

4 (4) (i) Notwithstanding any other provision of law, if the uninsured
5 employer is a corporation the assets of which are not sufficient to satisfy any penalty
6 ordered under this section, any officer of the corporation who has responsibility for the
7 general management of the corporation in the State is jointly and severally liable for the
8 penalty if the corporate officer knowingly failed to secure compensation for the covered
9 employees of the employer.

10 (ii) Notwithstanding any other provision of law, if the uninsured
11 employer is a limited liability company the assets of which are not sufficient to satisfy any
12 penalty ordered under this section, any member of the limited liability company who has
13 responsibility for the general management of the limited liability company in the State is
14 jointly and severally liable for the penalty if a member of the limited liability company who
15 has general management responsibility knowingly failed to secure compensation for the
16 covered employees of the employer.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
18 1, 2024.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.