

# SENATE BILL 216

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(PRE-FILED)

4lr0055

CF 4lr0056

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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

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## A BILL ENTITLED

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:

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) required to secure compensation for all covered employees of the  
2 employer;

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

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

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

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

10 (1) order the employer to:

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

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

14 (2) order the employer to pay a penalty [not to exceed \$10,000] **OF \$25,000**  
15 to the Uninsured Employers' Fund.

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

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

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

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

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

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

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

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

14                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
15 1, 2024.