



— Senate Committee on Labor and Industry —

Senator Kim L. Ward
Chairman

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Senate Bill 676 Printer's No. 795

Prime Sponsor: Gordner
Committee: Labor and Industry

SYNOPSIS:

Amends the Workers' Compensation Act in liability and compensation, further providing for injuries outside the Commonwealth and reforming the Uninsured Employers Guaranty Fund.

SUMMARY:

Section 305.2 – Out-of-State Employers

Provides that the Department of Labor and Industry (Department) may verify with another state that an out-of-state employer is either self-insured or insured in that state with respect to payment of a workers' compensation claim by an employee who has sustained an injury in Pennsylvania.

Clarifies that if an out-of-state employer is either self-insured in the other state, or if such employer's liability under the workers' compensation law of such other state is insured, the out-of-state employer will not be deemed an uninsured employer for purposes of Article XVI.

Provides that if an employee is injured while employed by an out-of-state employer and has not secured the payment of compensation as required by this Act, the employee is required to submit to the UEGF and to any workers' compensation judge hearing a petition against the fund the evidence that the employee is not entitled to workers' compensation benefits in such other state before compensation can be paid by the UEGF. The employee may file a notice or petition against the UEGF prior to the submission of evidence.

Section 1601 – Definitions

Amends the definition of "Fund" (the UEGF) to eliminate the requirement that the UEGF pay interest on benefits due and owing.

Section 1602 – Fund

Adds administrative penalties provided for under Section 1610 as a source of funding for the UEGF.

Section 1603 – Claims

Requires that an injured employee notify the UEGF within 45 days after the employee has been advised by the employer or any other source that the employer is uninsured. Injured employees shall not receive compensation from the UEGF unless the UEGF is timely notified and the Department determines that the employer failed to accept and pay the claim or subsequently defaulted on payments of compensation.

Provides that claim petitions against the UEGF must be filed between 21 and 180 days after notice of the claim is made to the UEGF. If a claim petition is filed after the 180 days specified, the claim petition will not be allowed.

Allows the UEGF to establish lists of at least six designated health care providers that are accessible in each county in specialties relevant to the treatment of work injuries. If the lists are established, during a period of 90 days from the employee's notification to the UEGF, the UEGF will be responsible to reimburse expenses only for services rendered by the designated providers.

Section 1604 – Claim Petition

Provides that the UEGF shall not be liable for wage loss benefits unless the amount of wages that the employee earned at the time of injury is established by:

- A check, check stub or payroll record.
- A tax return including IRS forms W-2 and 1099.
- Unemployment compensation records, including form UC-2A.
- Bank statements or records showing regular and recurring deposits.
- Written documentation created contemporaneously with the payment of wages.
- Testimony under oath of the uninsured employer.
- Testimony of the claimant, if found credible by the judge, provided in addition to one or more of the prior listed items.

Section 1605 – Department

Provides that the UEGF shall be entitled to restitution from an uninsured employer of all payments made by the UEGF, including the amount of any voluntary payments or award, reimbursement of the UEGF's costs and the fees of the UEGF's attorney.

Section 1609 – Uninsured Employer Obligations

Adds Section 1609, which stipulates that nothing under this article will alter the uninsured employer's obligations under this Act.

Section 1610 – Administrative Penalties and Stop-Work Orders

Adds Section 1610 providing for administrative penalties and stop-work orders as follows:

- Allows the Department to verify that an employer has the requisite workers' compensation insurance or that the employer no longer operates a business, no longer employs individuals entitled to compensation under the Act, or is otherwise exempt from the requirements of obtaining insurance.

- If verification is not returned within 15 days, the Department may assess a fine of \$200 per day. If failure continues for 45 days or if the Department has good cause to believe the employer is required but has failed to insure its liabilities, the Department may proceed to issue a stop-work order. The stop-work order shall take effect when served upon the employer by first class mail or posting at the employer's worksite.
- A stop-work order may require compliance with conditions necessary to ensure that the employer insures its liabilities under the Act and shall remain in effect until released by the Department or a court of competent jurisdiction. The stop-work order shall be subject to judicial review.
- If an employer fails to comply with a stop-work order, the Department may institute an action to enforce the order in the Commonwealth Court or a court of common pleas in the Twelfth Judicial District or in the judicial district where the violation occurred.

Applicability

Provides that the requirement that claim petitions must be filed between 21 and 180 days after the notice of the claim as added in Section 1603(d) and the allowance for the UEGF to establish lists of designated health care providers as added in Section 1603(e) shall apply to every claim in which notice under Section 1603 is provided to the fund on or after the effective date of the Act.

Provides that the following provisions shall apply retroactively to claims existing as of the effective date of this paragraph for which compensation has not been paid or awarded:

- The amendment of Section 305.2(c)
- The amendment of Section 1601
- The amendment of Section 1603(b)
- The amendment of Section 1604

Effective Date: Immediately

BILL HISTORY:

Introduced 5-4-17

Prepared by: Kratz 6/7/2017