

SENATE BILL NO. 118
INTRODUCED BY HALLIGAN
BY REQUEST OF THE DEPARTMENT OF LABOR

IN THE SENATE

JANUARY 16, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

JANUARY 30, 1987 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

JANUARY 31, 1987 PRINTING REPORT.

FEBRUARY 3, 1987 SECOND READING, DO PASS.

FEBRUARY 4, 1987 ENGROSSING REPORT.

FEBRUARY 5, 1987 THIRD READING, PASSED.
AYES, 47; NOES, 2.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & LABOR.

MARCH 17, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 20, 1987 SECOND READING, CONCURRED IN.

MARCH 21, 1987 THIRD READING, CONCURRED IN.
AYES, 85; NOES, 9.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 24, 1987 RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 25, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

MARCH 28, 1987

ENROLLING REPORT.

SIGNED BY PRESIDENT.

IN THE HOUSE

MARCH 28, 1987

SIGNED BY SPEAKER.

IN THE SENATE

MARCH 28, 1987

DELIVERED TO GOVERNOR.

APRIL 2, 1987

RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.

APRIL 6, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 7, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

TRANSMITTED TO HOUSE.

IN THE HOUSE

APRIL 15, 1987

SECOND READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

APRIL 16, 1987

THIRD READING, GOVERNOR'S RECOM-
MENDED AMENDMENTS CONCURRED IN.

RETURNED TO SENATE.

IN THE SENATE

APRIL 17, 1987

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1 Senate BILL NO. 118
2 INTRODUCED BY _____

3 BY REQUEST OF THE DEPARTMENT OF LABOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
6 DIVISION OF WORKERS' COMPENSATION MAY CONCURRENTLY PURSUE
7 CIVIL AND CRIMINAL ACTIONS AGAINST AN UNINSURED EMPLOYER;
8 AND AMENDING SECTION 39-71-507, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 39-71-507, MCA, is amended to read:

12 "39-71-507. Division to order uninsured employer to
13 cease operations -- noncompliance with order a misdemeanor
14 -- coordination of remedies. (1) When the division
15 discovers an uninsured employer, it shall order him to cease
16 operations until he has elected to be bound by a
17 compensation plan.

18 (2) An employer who does not comply with the
19 division's order to cease operations is guilty of a
20 misdemeanor. Each day of violation is a separate offense.
21 The county attorney may prosecute a criminal action under
22 this subsection in the county in which the violation occurs.
23 Prosecution under this subsection does not bar the division
24 from enforcing its order by a civil action.

25 (3) The division may institute and maintain in the

1 name of the state, through the attorney general or the
2 county attorney of the county in which the violation occurs,
3 an action for an injunction order or other civil remedy in
4 district court to enforce its order to cease operations.

5 (4) The remedies provided in 39-71-506 and subsections
6 (2) and (3) of this section are not mutually exclusive and
7 may be pursued concurrently."

8 NEW SECTION. Section 2. Extension of authority. Any
9 existing authority of the division of workers' compensation
10 to make rules on the subject of the provisions of this act
11 is extended to the provisions of this act.

-End-



-2-
INTRODUCED BILL
SB 118

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB118, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to clarify that the Division of Workers' Compensation may concurrently pursue civil and criminal actions against an uninsured employer.

ASSUMPTIONS:

1. Only six (6) cases per year may require court action.
2. Most of the violators are not prosecuted because they either cease operations or obtain insurance.
3. No additional staff will be required as a result of this bill.

FISCAL IMPACT:

Expenditures:

N/A

Revenues:

N/A

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Minimal - only about (6) cases per year would be prosecuted.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

N/A

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/21/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Mike Halligan DATE 1-22-87
MIKE HALLIGAN, PRIMARY SPONSOR

Fiscal Note for SB118, as introduced.

SB-118

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

1 Senate BILL NO. 118
2 INTRODUCED BY Rollins
3 BY REQUEST OF THE DEPARTMENT OF LABOR
4

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16 operations until he has elected to be bound by a
17 compensation plan.

18 (2) An employer who does not comply with the
19 division's order to cease operations is guilty of a
20 misdemeanor. Each day of violation is a separate offense.
21 The county attorney may prosecute a criminal action under
22 this subsection in the county in which the violation occurs.
23 Prosecution under this subsection does not bar the division
24 from enforcing its order by a civil action.

25 (3) The division may institute and maintain in the

1 name of the state, through the attorney general or the
2 county attorney of the county in which the violation occurs,
3 an action for an injunction order or other civil remedy in
4 district court to enforce its order to cease operations.

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6 (2) and (3) of this section are not mutually exclusive and
7 may be pursued concurrently."

8 NEW SECTION. Section 2. Extension of authority. Any
9 existing authority of the division of workers' compensation
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11 is extended to the provisions of this act.

-End-



1 Senate BILL NO. 118
 2 INTRODUCED BY Bill G.
 3 BY REQUEST OF THE DEPARTMENT OF LABOR

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 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE
 6 DIVISION OF WORKERS' COMPENSATION MAY CONCURRENTLY PURSUE
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 23 Prosecution under this subsection does not bar the division
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 11 is extended to the provisions of this act.

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2 INTRODUCED BY HALLIGAN

3 BY REQUEST OF THE DEPARTMENT OF LABOR

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6 DIVISION OF WORKERS' COMPENSATION MAY CONCURRENTLY PURSUE
7 CIVIL AND CRIMINAL ACTIONS AGAINST AN UNINSURED EMPLOYER; TO
8 CREATE THE CRIMINAL OFFENSE OF EMPLOYER MISCONDUCT; TO
9 IMPOSE PENALTIES FOR THE COMMISSION OF EMPLOYER MISCONDUCT;
10 AND AMENDING SECTION 39-71-507, MCA; AND PROVIDING AN
11 IMMEDIATE EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 39-71-507, MCA, is amended to read:

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22 division's order to cease operations is guilty of a
23 misdemeanor. Each day of violation is a separate offense.
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25 this subsection in the county in which the violation occurs.

1 Prosecution under this subsection does not bar the division
2 from enforcing its order by a civil action.

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4 name of the state, through the attorney general or the
5 county attorney of the county in which the violation occurs,
6 an action for an injunction order or other civil remedy in
7 district court to enforce its order to cease operations.

8 (4) The remedies provided in 39-71-506 and subsections
9 (2) and (3) of this section are not mutually exclusive and
10 may be pursued concurrently."

11 NEW SECTION. SECTION 2. EMPLOYER MISCONDUCT. (1) A
12 PERSON WHO IS AN EMPLOYER, AS DEFINED IN 39-71-117, COMMITS
13 THE OFFENSE OF EMPLOYER MISCONDUCT IF HE KNOWINGLY OR
14 PURPOSELY:

15 (A) AVOIDS HIS RESPONSIBILITY TO PROVIDE COVERAGE FOR
16 HIS EMPLOYEES AS REQUIRED BY 39-71-401;

17 (B) MISREPRESENTS OR FALSIFIES EMPLOYMENT RECORDS OR
18 INFORMATION, INCLUDING BUT NOT LIMITED TO UNDERSTATING THE
19 AMOUNT OF PAYROLL OR THE NUMBER OF HIS EMPLOYEES; OR

20 (C) REFUSES TO PAY PREMIUMS THAT HE IS OBLIGATED TO
21 PAY UNDER COMPENSATION PLAN NO. 2, AS PROVIDED IN TITLE 39,
22 CHAPTER 71, PART 22, OR COMPENSATION PLAN NO. 3, AS PROVIDED
23 IN TITLE 39, CHAPTER 71, PART 23.

24 (2) A PERSON CONVICTED OF THE OFFENSE OF EMPLOYER
25 MISCONDUCT SHALL BE FINED AN AMOUNT NOT TO EXCEED \$50,000 OR

1 IMPRISONED IN THE STATE PRISON FOR ANY TERM NOT TO EXCEED 10
2 YEARS, OR BOTH.

3 NEW SECTION. Section 3. Extension of authority. Any
4 existing authority of the division of workers' compensation
5 to make rules on the subject of the provisions of this act
6 is extended to the provisions of this act.

7 NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION.
8 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
9 TITLE 45, CHAPTER 7, AND THE PROVISIONS OF TITLE 45, CHAPTER
10 7, APPLY TO SECTION 2.

11 NEW SECTION. SECTION 5. EFFECTIVE DATE. THIS ACT IS
12 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

GOVERNOR'S AMENDMENTS TO
SENATE BILL NO. 118
(Reference Copy)
April 2, 1987

1. Title, line 11.
Following: line 10
Strike: "IMMEDIATE"
2. Page 3, line 12.
Following: "EFFECTIVE"
Strike: "ON PASSAGE AND APPROVAL"
Insert: "July 1, 1987"

-END-

STANDING COMMITTEE REPORT

HOUSE

MARCH 17

19 87

Mr. Specker: We, the committee on BUSINESS AND LABOR

report SENATE BILL NO. 118

- do pass
- be concurred in
- as amended
- do not pass
- be not concurred in
- statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS;

1) Title, line 7
Following: "EMPLOYER:"

Insert: "CREATE THE CRIMINAL OFFENSE OF EMPLOYER MISCONDUCT; IMPOSE PENALTIES FOR THE COMMISSION OF EMPLOYER MISCONDUCT; PROVIDING AN IMMEDIATE EFFECTIVE DATE;"

2) Page 2, line 8
Following: line 7

Insert: "NEW SECTION. Section 2. Employer misconduct.

(1) A person who is an employer, as defined in 39-71-117, commits the offense of employer misconduct if he knowingly or purposely:

(a) avoids his responsibility to provide coverage for his employees as required by 39-71-401;

(b) misrepresents or falsifies employment records or information, including but not limited to, understating the amount of payroll or the number of his employees; or

(c) refuses to pay premiums that he is obligated to pay under compensation plan No. 2, as provided in Title 39, chapter 71, part 22, or compensation plan No. 3, as provided in Title 39, chapter 71, part 23.

(2) A person convicted of the offense of employer misconduct shall be fined an amount not to exceed \$50,000 or imprisoned in the state prison for any term not to exceed 10 years, or both."

Renumber: subsequent section

3) Page 2
Following: line 11

Insert: "NEW SECTION. Section 4. Codification instruction. Section 2 is intended to be codified as an integral part of Title 45, chapter 7, and the provisions of Title 45, chapter 7, apply to section 2.

NEW SECTION. Section 5. Effective date. This act is effective on passage and approval."

Rep. Glaser will sponsor

Handwritten initials: AA and MSW

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A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE DIVISION OF WORKERS' COMPENSATION MAY CONCURRENTLY PURSUE CIVIL AND CRIMINAL ACTIONS AGAINST AN UNINSURED EMPLOYER; TO CREATE THE CRIMINAL OFFENSE OF EMPLOYER MISCONDUCT; TO IMPOSE PENALTIES FOR THE COMMISSION OF EMPLOYER MISCONDUCT; AND AMENDING SECTION 39-71-507, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(2) An employer who does not comply with the division's order to cease operations is guilty of a misdemeanor. Each day of violation is a separate offense. The county attorney may prosecute a criminal action under this subsection in the county in which the violation occurs.

Prosecution under this subsection does not bar the division from enforcing its order by a civil action.

(3) The division may institute and maintain in the name of the state, through the attorney general or the county attorney of the county in which the violation occurs, an action for an injunction order or other civil remedy in district court to enforce its order to cease operations.

(4) The remedies provided in 39-71-506 and subsections (2) and (3) of this section are not mutually exclusive and may be pursued concurrently."

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8 SECTION 2 IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF
9 TITLE 45, CHAPTER 7, AND THE PROVISIONS OF TITLE 45, CHAPTER
10 7, APPLY TO SECTION 2.

11 NEW SECTION. SECTION 5. EFFECTIVE DATE. THIS ACT IS
12 EFFECTIVE ~~ON-PASSAGE-AND-APPROVAL~~ JULY 1, 1987.

-End-