

By Mr. Ambler of Weymouth, petition of the Mass. State Labor Council and Robert B. Ambler relative to increasing the penalties for failing to provide workmen's compensation and to provide for the payment of compensation when an employer is uninsured. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Four.

AN ACT TO INCREASE THE PENALTIES FOR FAILING TO PROVIDE WORKMEN'S COMPENSATION AND TO PROVIDE FOR THE PAYMENT OF COMPENSATION WHERE AN EMPLOYER IS UNINSURED.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 152 of the General Laws is hereby
2 amended by striking out section 25C as most recently amended
3 and inserting in place thereof the following section: —

4 *Section 25C.* If an employer who is required to provide for
5 the payment of the compensation provided for by this chapter
6 fails to so do, he shall be punished by a fine of not more than
7 five thousand dollars or imprisonment for not more than five
8 years, or both. Failure of an employer after imposition of the
9 foregoing penalty, to provide for the payment of compensation
10 under this chapter after notice by the division to such employer
11 so to do shall, as to each notice, be deemed a separate violation
12 of this section and shall be punished by a fine of not more than
13 seven thousand five hundred dollars or imprisonment for not
14 more than seven years, or both. If such an employer is a
15 corporation the president or treasurer, or both, shall be liable for
16 such penalty.

17 The division shall notify the attorney general of any alleged
18 violation of the provisions of this section. Upon receipt of such
19 notice from the division, the attorney general shall bring
20 complaints against the named employer, including the president
21 and treasuer of a corporation which is an employer, for
22 violations of this section and prosecute the same.

23 Such complaints shall be brought in the superior court in
24 which the principal place of business of such employer is
25 situated, or in the superior court in whose jurisdiction such
26 president or treasurer of a corporation resides.

1 SECTION 2. Chapter 152 of the General Laws is hereby
2 amended by inserting after section 25D the following section: –
3 *Section 25E.* All insurers and self-insurers shall pay into the
4 state treasury, annually, or at such intervals as the commissioner
5 of insurance shall prescribe, an amount, to be determined by the
6 said commissioner, sufficient to provide for the payment of
7 compensation where an employer fails to provide for the
8 payment of compensation as provided in this chapter. Such
9 payments shall constitute a special fund in the custody of the
10 state treasurer, to be known as the Uninsured Employer Fund.
11 The state treasurer shall make payments from the fund as is
12 herein provided.

13 Any fine imposed pursuant to section 25C of this chapter shall
14 be likewise paid into the state treasury as part of the said Fund.

15 Where an employer fails to provide for the payment of
16 compensation as provided in this chapter, the claim for compen-
17 sation shall be made against the Uninsured Employer Fund.

18 Where a claim is made against the Fund, the Fund shall have
19 all rights and obligations of an insurer under this chapter, and
20 proceedings shall in all respects to be the same as if the claim
21 were made against an insurer.

22 Where the state treasurer is required to make payments from
23 the Fund, the employer who so failed to provide for the payment
24 of such compensation shall reimburse the fund for such payment.

1 SECTION 3. Chapter 152 of the General Laws is hereby
2 amended by inserting after section 25D the following section: –
3 *Section 25F.* The records of the division kept pursuant to
4 S.63 this chapter shall be prima facie evidence of compliance by
5 an employer with the obligation to provide for the payment to
6 his employees of the compensation as provided for by this
7 chapter. The absence of any record of such compliance shall be
8 prima facie evidence that an employer has failed to comply with
9 the obligation to provide for such payment.