

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 389

By: Jech

AS INTRODUCED

An Act relating to workers' compensation; amending 85A O.S. 2021, Section 40, which relates to failure to secure compensation; granting Attorney General concurrent authority with the Oklahoma Workers' Compensation Commission to investigate and enforce certain violations; authorizing certain inspections for specified purpose; updating statutory language; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85A O.S. 2021, Section 40, is amended to read as follows:

Section 40. A. 1. Any employer who fails to secure compensation required under the Administrative Workers' Compensation Act, upon conviction, shall be guilty of a misdemeanor and subject to a fine ~~of~~ up to Ten Thousand Dollars (\$10,000.00) to be deposited in the Workers' Compensation Commission Revolving Fund.

2. The Attorney General shall have concurrent authority with the Oklahoma Workers' Compensation Commission to investigate and enforce any violation of the laws of this state regarding workers'

1 compensation and may perform unannounced on-site inspections of any  
2 employer to determine compliance with this section.

3 3. This subsection shall not affect any other liability of the  
4 employer under the Administrative Workers' Compensation Act.

5 B. 1. Whenever the Oklahoma Workers' Compensation Commission  
6 has reason to believe that any employer required to secure the  
7 payment of compensation under the Administrative Workers'  
8 Compensation Act has failed to do so, the Commission shall serve on  
9 the employer a proposed judgment declaring the employer to be in  
10 violation of the Administrative Workers' Compensation Act and  
11 containing the amount, if any, of the civil penalty to be assessed  
12 against the employer under paragraph 5 of this subsection.

13 2. a. An employer may contest a proposed judgment of the  
14 Commission issued under paragraph 1 of this subsection  
15 by filing with the Commission, within twenty (20) days  
16 of receipt of the proposed judgment, a written request  
17 for a hearing.

18 b. The request for a hearing does not need to be in any  
19 particular form but shall specify the grounds on which  
20 the person contests the proposed judgment, the  
21 proposed assessment, or both.

22 c. If a written request for hearing is not filed with the  
23 Commission within the time specified in subparagraph a  
24 of this paragraph, the proposed judgment, the proposed  
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1 penalty or both, shall be a final judgment of the  
2 Commission and shall not be subject to further review  
3 by any court, except if the employer shows good cause  
4 why it did not timely contest the judgment or penalty.

5 d. A proposed judgment by the Commission under this  
6 section shall be prima facie correct, and the burden  
7 is on the employer to prove that the proposed judgment  
8 is incorrect.

9 3. a. If the employer alleges that a carrier has contracted  
10 to provide it workers' compensation insurance coverage  
11 for the period in question, the employer shall include  
12 the allegation in its request for hearing and shall  
13 name the carrier.

14 b. The Commission shall promptly notify the carrier of  
15 the employer's allegation and of the date of hearing.

16 c. The carrier shall promptly, and no later than five (5)  
17 days before the hearing, respond in writing to the  
18 employer's allegation by providing evidence of  
19 coverage for the period in question or by  
20 affirmatively denying the employer's allegation.

21 4. Hearings under this section shall be procedurally conducted  
22 as provided in Sections 69 through 78 of this title.

23 5. The Commission may assess a fine against an employer who  
24 fails to secure the payment of compensation in an amount up to One  
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1 Thousand Dollars (\$1,000.00) per day of violation payable to the  
2 Workers' Compensation Commission Revolving Fund, not to exceed a  
3 total of Fifty Thousand Dollars (\$50,000.00) for the first  
4 violation.

5 6. If an employer fails to secure the payment of compensation  
6 or pay any civil penalty assessed against the employer after a  
7 judgment issued under this section has become final by operation of  
8 law or on appeal, the Commission may petition the Oklahoma County  
9 District Court or the district court of the county where the  
10 employer's principal place of business is located for an order  
11 enjoining the employer from engaging in further employment until  
12 such time as the employer secures the payment of compensation or  
13 makes full payment of all civil penalties.

14 7. Upon any penalty becoming final under this section, the  
15 Commission may institute collection proceedings against any assets  
16 of the employer independently or in district court including, but  
17 not limited to, an asset hearing, garnishment of income and wages,  
18 judgment lien or an intercept of an income tax refund consistent  
19 with Section 205.2 of Title 68 of the Oklahoma Statutes.

20 8. Information subject to subsection A or B of Section 4-508 of  
21 Title 40 of the Oklahoma Statutes may be disclosed to the employees  
22 of the Commission for purposes of investigation and enforcement of  
23 workers' compensation coverage requirements pursuant to this title,  
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1 and such information shall be admissible in any hearing before an  
2 administrative law judge of the Commission.

3 9. Litigation files and investigatory reports of the Commission  
4 arising from enforcement of the provisions of this section shall be  
5 confidential pursuant to Section 24A.12 of Title 51 of the Oklahoma  
6 Statutes.

7 SECTION 2. It being immediately necessary for the preservation  
8 of the public peace, health or safety, an emergency is hereby  
9 declared to exist, by reason whereof this act shall take effect and  
10 be in full force from and after its passage and approval.

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