

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1103

Introduced by

Industry, Business and Labor Committee

(At the request of Workforce Safety and Insurance)

1 A BILL for an Act to create and enact subdivision c of subsection 4 of section 65-08-01 of the
2 North Dakota Century Code, relating to workers' compensation extraterritorial coverage; to
3 amend and reenact section 65-04-22 and subsections 3 and 4 of section 65-04-33 of the North
4 Dakota Century Code, relating to payment of workers' compensation premiums and penalties
5 for failure to secure coverage; and to provide for application.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 65-04-22 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **65-04-22. Organization may make premium due immediately - When premium is in**
10 **default.**

11 The organization may require payment of a premium, including an advance premium,
12 security deposit, or any other instrument that is mutually acceptable to the organization and the
13 employer, within any time which, in the judgment of the organization, is reasonable and
14 necessary to secure the payment of the premium by any employer. The premium, whether paid
15 in full or in installments, shall be in default one month from the payment due date specified in
16 the premium billing statement.

17 Default of any installment payment will, at the option of the organization, make the entire
18 remaining balance of the premium due and payable. The organization may declare an employer
19 uninsured at any time after forty-five days have passed from the due date specified in the
20 premium billing statement and the employer has failed to make a payment to the organization.
21 The organization may decline coverage to any employer that has been determined to be
22 uninsured under this section or where a premium delinquency remains unresolved.

23 **SECTION 2. AMENDMENT.** Subsections 3 and 4 of section 65-04-33 of the North Dakota
24 Century Code are amended and reenacted as follows:

- 1 3. An employer who is uninsured is liable for any premiums plus penalties and interest
2 due on those premiums, plus a penalty of twenty-five percent of all premiums due
3 during the most recent year of noncompliance. An additional five percent penalty is
4 due for each year of noncompliance before the most recent year beginning on the
5 date the organization became aware of the employer's uninsured status, resulting in
6 the penalty for the second most recent year being thirty percent, for the third most
7 recent year being thirty-five percent, for the fourth most recent year being forty
8 percent, for the fifth most recent year being forty-five percent, and for the sixth most
9 recent year being fifty percent. In addition, the organization may assess a penalty of
10 ~~two~~five thousand dollars for each premium period the employer was uninsured. The
11 organization may not assess a penalty for more than six years of past noncompliance.
12 The organization may assess additional penalties, from the date the organization
13 became aware of the employer's uninsured status continuing until the effective date of
14 coverage, equal to twenty-five percent of the premium due for that period. ~~The~~
15 ~~penalties for employers are in addition to any other penalties provided by law. The~~
16 ~~organization may reduce these penalties. However, the amount due from~~In addition,
17 the organization may assess an employer ~~may not be less than~~ the actual cost and
18 reserves of any claim attributable to the employer during the time the employer was
19 uninsured, ~~unless authorized by the director. The penalties for employers are in~~
20 addition to any other penalties by law. The organization may reduce the penalties
21 provided for under this section. An employer may not appeal an organization decision
22 not to reduce a penalty under this subsection.
- 23 4. An employer who fails or refuses to furnish to the organization the annual payroll
24 report and estimate or who fails or refuses to furnish other information required by the
25 organization under this chapter is subject to a penalty established by the organization
26 of two thousand dollars. Upon the request of the organization, the employer shall
27 furnish the organization any of that employer's payroll records, annual payroll reports,
28 and other information required by the organization under this chapter and an estimate
29 of payroll for the advance premium year. If the employer fails or refuses to provide the
30 records within thirty days of a written request from the organization, the employer is
31 subject to a penalty not to exceed one hundred dollars for each day until the

1 organization receives the records, in addition to the ~~two~~five thousand dollar penalty set
2 forth above. The organization may not assess a penalty that exceeds one hundred fifty
3 dollars under this subsection against an organized township. The organization may
4 reduce penalties for employers under this subsection. However, an employer may not
5 appeal an organization decision not to reduce a penalty. The organization shall notify
6 an employer by regular mail of the amount of premium and penalty due the
7 organization from the employer. If the employer fails to pay that amount within thirty
8 days, the organization may collect the premium, penalties, and interest due by civil
9 action. In that action, the court may not review or consider the action of the
10 organization regarding the acceptance or payment of a claim filed when the employer
11 was uninsured. No exemptions except absolute exemptions under section 28-22-02
12 are allowed against any levy under executions pursuant to a judgment recovered in
13 the action.

14 **SECTION 3.** Subdivision c to subsection 4 of section 65-08-01 of the North Dakota Century
15 Code is created and enacted as follows:

16 c. An employer hires an employee in this state for work in this state.

17 **SECTION 4. APPLICATION.** Section 2 of this Act applies to all accounts in noncompliance
18 on or after the effective date of this Act.