

HOUSE BILL NO. 1125

Introduced by

Representatives Carlson, Vigesaa

Senator Krebsbach

(At the request of Workforce Safety and Insurance)

1 A BILL for an Act to amend and reenact sections 65-04-01, 65-04-19.1, 65-04-19.3, 65-05-07.2,
2 65-07-02, and 65-07-03 of the North Dakota Century Code, relating to workforce safety and
3 insurance annual establishment of minimum premium, premium discount and premium
4 calculation programs, employer medical expense assessment incentives, elective coverage,
5 and coverage for employer's children.

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

7 **SECTION 1. AMENDMENT.** Section 65-04-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **65-04-01. Classification of employments - Premium rates - Requirements.**

- 10 1. The organization shall classify employments with respect to their degrees of
11 hazard, determine the risks of different classifications, and fix the rate of premium
12 for each of the classifications sufficiently high to provide for:
- 13 a. The payment of the expenses of administration of the organization;
 - 14 b. The payment of compensation according to the provisions and schedules
15 contained in this title; and
 - 16 c. The maintenance by the fund of adequate reserves and surplus to the end
17 that it may be kept at all times in an entirely solvent condition.
- 18 2. In the exercise of the powers and discretion conferred upon it, the organization
19 shall fix and maintain for each class of occupation, the lowest rate which still will
20 enable it to comply with the other provisions of this section.
- 21 3. Before the effective date of any premium rate change, including a change in the
22 minimum premium, the organization shall hold a public hearing on the rate change.
23 Chapter 28-32 does not apply to a hearing held by the organization under this
24 subsection.

1 **SECTION 2. AMENDMENT.** Section 65-04-19.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **65-04-19.1. Premium discount for implementation of preapproved risk**
4 **management program.** Any employer who implements or maintains risk management
5 programs approved by the organization is entitled to a ~~five percent~~ discount in the annual
6 premium the employer must pay to the organization for the year following the year in which the
7 risk management programs are implemented or maintained. The organization may not apply
8 the discount to an employer's premium unless the organization has approved the programs
9 implemented by the employer.

10 **SECTION 3. AMENDMENT.** Section 65-04-19.3 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **65-04-19.3. Premium calculation programs - Authority.** Upon approval of its board
13 of directors, the organization may create and implement ~~by emergency rulemaking~~ actuarially
14 sound employer premium calculation programs, including dividends, group insurance, premium
15 deductibles, and reimbursement for medical expense assessments. Programs created or
16 modified under this section ~~may be created or modified by emergency rulemaking~~ are not
17 subject to title 28-32 and ~~must~~ may include requirements or incentives for the early reporting of
18 injuries. An employer with a deductible policy under this section, who chooses to pursue a
19 third-party action under section 65-01-09 after an injured worker and the organization have
20 chosen not to pursue the third-party action, may keep one hundred percent of the recovery
21 obtained, regardless of the expense incurred in covering the injury and regardless of any
22 contrary provision in section 65-01-09. If the employer pursues the third-party action pursuant
23 to this section, neither the organization nor the injured worker has any liability for sharing in the
24 expense of bringing that action.

25 **SECTION 4. AMENDMENT.** Section 65-05-07.2 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **65-05-07.2. Payment to organization for certain claims.** The employer shall
28 reimburse the organization for all medical expenses related to a compensable injury to an
29 employee if the expenses are not more than two hundred fifty dollars and shall reimburse the
30 organization for the first two hundred fifty dollars of medical expenses when the expenses are
31 more than two hundred fifty dollars. If a claim for benefits is filed with the organization by

1 midnight central time on the day following the workplace injury, the organization shall pay the
2 first two hundred fifty dollars of medical expenses. A claim is filed by submitting a form
3 furnished by the organization or by another method designated by the organization. If a claim
4 for benefits is filed with the organization more than fourteen days from the date the employer
5 received notice of the workplace injury from the employee, the employer shall reimburse the
6 organization for the first three hundred fifty dollars of medical expenses when the expenses are
7 greater than three hundred fifty dollars. If an employee's compensable injury is determined
8 through a civil action to have been sustained through the fault or negligence of a third person,
9 or if a settlement has been entered between the employee and a third person through which the
10 third person agrees to compensate the employee for the injury, the organization, upon receipt of
11 its subrogation interest, shall credit the account of the employer to the extent of the payment
12 made by the employer to the organization under this section. Upon the organization's
13 determination that the claim is compensable, the organization shall pay the medical expenses
14 associated with the claim and notify the employer of payments to be made by the employer
15 under this section. If the employer does not pay the organization within thirty days of notice by
16 the organization, the organization may impose a penalty on that employer. The penalty may
17 not exceed one hundred twenty-five percent of the payment owed by the employer. The
18 organization shall collect the penalty in a civil action against the employer and deposit the
19 money in the fund. An employer may not directly or indirectly charge an injured employee for
20 any payment the employer makes on a claim. ~~When~~ Except as otherwise provided, if the cost
21 of an injured employee's medical treatment exceeds two hundred fifty dollars, the organization
22 shall pay all further medical expenses pursuant to this title. This section is effective for all
23 compensable injuries that occur after July 31, 1995. Compensable injuries paid under sections
24 65-06.2-04 through 65-06.2-08 are not subject to this section.

25 **SECTION 5. AMENDMENT.** Section 65-07-02 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **65-07-02. Organization may refuse to contract for coverage.** The organization, on
28 receipt of an application for insurance, shall determine whether ~~or not~~ the applicant is a good
29 insurance risk and may deny such special contract if ~~in its opinion~~ the organization determines
30 it is ~~to~~ in the best interests of the fund ~~and~~ organization to do so.

1 **SECTION 6. AMENDMENT.** Section 65-07-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **65-07-03. Determination of weekly wage for premium purposes.** If the organization
4 enters ~~into~~ a contract for insurance under this chapter, the premium for ~~such~~ the protection
5 must be based on:

- 6 1. The amount of money derived on an annual basis from the business of an
7 employer or self-employed person as outlined in subdivision b of subsection 5 of
8 section 65-01-02 for purposes of determining the premium for coverage of an
9 employer, an employer's spouse, ~~an employer's child over the age of seventeen~~, or
10 a self-employed person. This amount may not be less than the limited payroll
11 required to be reported for an employee in subsection 1 of section 65-04-04.2.
- 12 2. A reasonable wage as determined by the organization for employees in the same
13 class of industry that the volunteer organization is engaged.
- 14 3. Actual wages paid to a clerk, an assessor, a treasurer, or a member of the board of
15 supervisors of an organized township, if the contract for insurance is to provide
16 protection for a person mentioned in this subsection and that person is not
17 employed by the township in any other capacity.
- 18 4. Actual wages paid to an employer's child if that child is under the age of ~~eighteen~~
19 twenty-two.