

**FIRST ENGROSSMENT
with House Amendments****ENGROSSED SENATE BILL NO. 2121**

Introduced by

Industry, Business and Labor Committee

(At the request of the Workers Compensation Bureau)

1 A BILL for an Act to amend and reenact sections 65-01-05 and 65-05-33 of the North Dakota
2 Century Code, relating to workers' compensation fraud; to provide a penalty; and to provide an
3 effective date.

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

5 **SECTION 1. AMENDMENT.** Section 65-01-05 of the 1999 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **65-01-05. Employment of those unprotected by insurance unlawful - Effect of**
8 **failure to secure compensation - Penalty - Injunction.** It is unlawful for ~~any~~ an employer to
9 employ anyone, or to receive the fruits of the labor of ~~any~~ a person, in a hazardous
10 employment as defined in this title, without first ~~making application~~ applying for workers'
11 compensation insurance coverage for the protection of ~~such~~ the employees by notice to the
12 bureau of the intended employment, the nature thereof, and the estimated payroll expenditure
13 for the coming twelve-month period. ~~Failure~~ Willful failure to secure workers' compensation
14 coverage for employees by application for workers' compensation insurance constitutes a class
15 A misdemeanor. If the premium due exceeds five hundred dollars, the penalty for willful failure
16 to secure coverage is a class C felony. ~~Where~~ If the employer is a corporation or a limited
17 liability company, the president, secretary, treasurer, or person with primary responsibility is
18 liable for the failure to secure workers' compensation coverage under this section. In addition
19 to the penalties prescribed by this section the bureau may, by injunction proceedings as
20 provided for in this title, enjoin ~~any~~ an employer from unlawfully employing uninsured workers.

21 **SECTION 2. AMENDMENT.** Section 65-05-33 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **65-05-33. Filing false claim or false statement - Penalty.**

- 1 1. A person ~~is guilty of a class A misdemeanor if that person is claiming~~ who claims
2 benefits or payment for services under this title, ~~and that~~ or the employer of a
3 person who claims benefits or payments for services is guilty of a class A
4 misdemeanor if the person or employer does any one or more of the following:
 - 5 a. Willfully files a false claim or makes a false statement in an attempt to secure
6 payment of benefits or payment for services.
 - 7 b. Willfully misrepresents that person's physical condition, including deceptive
8 conduct which misrepresents that person's physical ability.
 - 9 c. Has a claim for disability benefits that has been accepted by the bureau and
10 willfully fails to notify the bureau of:
 - 11 (1) Work or other activities as required under subsection 3 of section
12 65-05-08;
 - 13 (2) The receipt of income from work; or
 - 14 (3) An increase in income from work.
- 15 2. If any of the acts in subsection 1 are committed to obtain, or pursuant to a scheme
16 to obtain, more than five hundred dollars in benefits or payment for services, the
17 offense is a class C felony.
- 18 3. In addition to any other penalties provided by law, the person claiming benefits or
19 payment for services in violation of this section shall reimburse the bureau for any
20 benefits paid based upon the false claim or false statement and, if applicable,
21 under section 65-05-29 and shall forfeit any additional benefits relative to that
22 injury.
- 23 4. For purposes of this section, "statement" includes any testimony, claim form,
24 notice, proof of injury, proof of return to work status, bill for services, diagnosis,
25 prescription, hospital or doctor records, x-ray, test results, or other evidence of
26 loss, injury, or expense.

27 **SECTION 3. EFFECTIVE DATE.** This Act is effective August 1, 2001, for all claims,
28 regardless of the date of injury.