

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1125  
(Representatives Carlson, Vigesaa)  
(Senator Krebsbach)  
(At the request of Workforce Safety and Insurance)

AN ACT to amend and reenact sections 65-03-04, 65-04-01, 65-04-19.1, 65-04-19.3, 65-05-07.2, 65-07-02, and 65-07-03 of the North Dakota Century Code, relating to workforce safety and insurance annual establishment of minimum premium, premium discount and premium calculation programs, employer medical expense assessment incentives, elective coverage, and coverage for employer's children; and to provide a continuing appropriation.

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

**SECTION 1. AMENDMENT.** Section 65-03-04 of the North Dakota Century Code is amended and reenacted as follows:

**65-03-04. Safety programs - Continuing appropriation.** The organization shall create and operate work safety and loss prevention programs to protect the health of covered employees and the financial integrity of the fund, including programs promoting safety practices by employers and employees through education, training, consultation, grants, or incentives. Any funds deposited in the workforce safety insurance fund are appropriated to the organization on a continuing basis for the purpose of funding the programs implemented under this section.

**SECTION 2. AMENDMENT.** Section 65-04-01 of the North Dakota Century Code is amended and reenacted as follows:

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

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

**SECTION 3. AMENDMENT.** Section 65-04-19.1 of the North Dakota Century Code is amended and reenacted as follows:

**65-04-19.1. Premium discount for implementation of preapproved risk management program.** Any employer who implements or maintains risk management programs approved by the organization is entitled to a ~~five percent~~ discount in the annual premium the employer must pay to the

organization for the year following the year in which the risk management programs are implemented or maintained. The organization may not apply the discount to an employer's premium unless the organization has approved the programs implemented by the employer.

**SECTION 4. AMENDMENT.** Section 65-04-19.3 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 5. AMENDMENT.** Section 65-05-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**65-05-07.2. Payment to organization for certain claims.** The employer shall reimburse the organization for all medical expenses related to a compensable injury to an employee if the expenses are not more than two hundred fifty dollars and shall reimburse the organization for the first two hundred fifty dollars of medical expenses when the expenses are more than two hundred fifty dollars. If a claim for benefits is filed with the organization by midnight central time on the first business day following the workplace injury, the organization shall pay the first two hundred fifty dollars of medical expenses. A claim is filed by submitting a form furnished by the organization or by another method designated by the organization. If a claim for benefits is filed with the organization more than fourteen days from the date the employer received notice of the workplace injury from the employee, the employer shall reimburse the organization for the first three hundred fifty dollars of medical expenses when the expenses are greater than three hundred fifty dollars. If an employee's compensable injury is determined through a civil action to have been sustained through the fault or negligence of a third person, or if a settlement has been entered between the employee and a third person through which the third person agrees to compensate the employee for the injury, the organization, upon receipt of its subrogation interest, shall credit the account of the employer to the extent of the payment made by the employer to the organization under this section. Upon the organization's determination that the claim is compensable, the organization shall pay the medical expenses associated with the claim and notify the employer of payments to be made by the employer under this section. If the employer does not pay the organization within thirty days of notice by the organization, the organization may impose a penalty on that employer. The penalty may not exceed one hundred twenty-five percent of the payment owed by the employer. The organization shall collect the penalty in a civil action against the employer and deposit the money in the fund. An employer may not directly or indirectly charge an injured employee for any payment the employer makes on a claim. ~~When~~ Except as otherwise provided, if the cost of an injured employee's medical treatment exceeds two hundred fifty dollars, the organization shall pay all further medical expenses pursuant to this title. This section is effective for all compensable injuries that occur after July 31, 1995. Compensable injuries paid under sections 65-06.2-04 through 65-06.2-08 are not subject to this section.

**SECTION 6. AMENDMENT.** Section 65-07-02 of the North Dakota Century Code is amended and reenacted as follows:

**65-07-02. Organization may refuse to contract for coverage.** The organization, on receipt of an application for insurance, shall determine whether ~~or not~~ the applicant is a good insurance risk

and may deny such special contract if ~~in its opinion~~ the organization determines it is ~~to~~ in the best interests of the ~~fund or~~ organization to do so.

**SECTION 7. AMENDMENT.** Section 65-07-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1125.

House Vote:      Yeas    85      Nays    4      Absent    5

Senate Vote:    Yeas    43      Nays    1      Absent    3

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State