

Summary of Rep. Davis' Proposed Amendment to H.867

First. Amends Sec. 6 of the Bill, 21 V.S.A. § 692. Penalties; Failure to Insure; Stop-Work Orders

- Transfers enforcement authority related to requirement that an employer secure workers' compensation insurance for its employees from the Department of Labor to the Office of the Attorney General.
- Adds a new subsection (e), that permits the Attorney General to enforce the section by restraining prohibited acts, collecting civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in the same manner that the Attorney General would for an unfair act in commerce.
 - This language is based on similar provisions in Title 21 that are enforced by the Attorney General, such as 21 V.S.A. § 495b.

Second. Amends Sec. 9, 21 V.S.A. § 690. Certificate, Form; Copy of Policy

- Subsection (b) would permit both the Attorney General and the Commissioner of Labor to request a workers' compensation compliance statement from an employer.
 - New language in subsection (b)(2)(A)(ii) permits the Attorney General to seek a civil penalty of up to \$5,000 for each week during which an employer fails to comply with a request or falsifies information, as well as costs and attorney's fees related to enforcing the subsection.
- Amends the new subsection (c) to require that after receiving written authorization from an employer, the employer's insurance agent or broker, or insurance company shall provide any requested insurance contract or policy information to either the Attorney General or the Commissioner of Labor within five business days.

Third. Amends Sec. 10, 21 V.S.A. § 625. Contracting Out Forbidden

- Amends language from H.867 to transfer authority for the investigation of employee misclassification from the Commissioner of Labor to the Attorney General.
- Subsection (b)(2) permits the Attorney General to enforce the provisions of the Workers' Compensation chapter (21 V.S.A. ch. 9) by restraining prohibited acts, collecting civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in the same manner that the Attorney General would for an unfair act in commerce.
 - This language is based on similar provisions in Title 21 that are enforced by the Attorney General, such as 21 V.S.A. § 495b.
- Subsection (c) provides a civil penalty of \$5,000 for a person that misclassifies an employee for the purpose of avoiding its obligations under the Workers' Compensation law.
 - The original bill provides for an administrative penalty of \$5,000.
- The new subsection (d) requires the Attorney General to notify the Commissioners of Labor, of Financial Regulation, and of Taxes if it determines that a person has misclassified an

employee, and requires those Commissioners to investigate whether that person also misclassified the employee under the applicable provisions of the law under each Commissioner's jurisdiction.

Fourth. Amends Sec. 13, 21 V.S.A. § 708. Penalty for False Representation

- Amends the section so that if a person makes a false statement to obtain a benefit or payment under the Workers' Compensation chapter, the Commissioner of Labor may impose an administrative penalty of up to \$20,000, or the Attorney General may seek a civil penalty of up to \$20,000.
- Makes corresponding changes throughout the remainder of the section so that other enforcement powers extend to both the Commissioner of Labor and the Attorney General.

Fifth. Adds Sec. 15. Transfer of Positions and Associated Appropriations from the Department of Labor to the Office of the Attorney General

- Transfers five full-time workers' compensation investigators from the Department of Labor to the Office of Attorney General, together with the balance of all appropriated amounts related to those positions and \$115,000 from the Workers' Compensation Administration Fund.

Sixth. Adds a Sec. 16 to amend Sec. 7 of Act 142 of 2010. Department of Labor; Employee Misclassification Reporting System

- Amends session law from Act 142 of 2010 to clarify that information provided to the Reporting System regarding suspected employee misclassification, failure to have appropriate insurance coverage, and claimant fraud will be distributed to the Office of the Attorney General.