

EMPLOYMENT LAW SUMMARY

Illinois Workers' Compensation--Employer Penalties



Because You're Different

Workers' compensation is a system of no-fault insurance that provides medical and monetary benefits to employees who sustain injuries or diseases at work. In Illinois, the Illinois Worker's Compensation and Occupational Diseases Act (IWCA) governs the workers' compensation system throughout the state. The [Illinois Workers' Compensation Commission](#) (Commission) monitors compliance with the IWCA and may impose penalties on employers that fail to comply with its requirements. This Employment Law Summary provides a general overview of these penalties.

GENERAL VIOLATION PENALTY

In general, any neglect, refusal or failure to comply with the IWCA is a petty offense, punishable by a **fine of up to \$1,000**. The IWCC may also order an employer to pay **restitution** to any victims of a violation.

FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE

Employers that fail to secure workers' compensation coverage for their employees lose the protections of the IWCA and may face criminal and civil penalties as described below. In addition, the IWCC may issue a **work-stop order** to require an offending employer to cease all operations until appropriate coverage is secured. **As of Jan. 1, 2024**, a new law, House Bill (HB) 2145, also requires the Commission to suspend or revoke any business license or permit held by an employer that fails to obtain coverage.

CIVIL PENALTIES

Employers are subject to civil penalties of up to **\$500 per day**, for each day of non-compliance, if they:

- Knowingly and willfully fail or refuse to obtain adequate employee coverage; or
- Fail or refuse to comply with any order issued by the IWCC to correct coverage deficiencies.

Also, without the protection of the IWCA, injured employees may sue their employers in court for work-related injuries. In these cases, employee injuries carry a presumption of employer negligence and employers may not claim third-party responsibility.

CRIMINAL PENALTIES

Employers that negligently fail to obtain adequate coverage for their employees may be charged with a **class A misdemeanor**, which is punishable by a **fine of up to \$2,500, imprisonment for up to one year or both**.

Employers that knowingly or intentionally fail to obtain coverage may be charged with a **class 4 felony**, which is punishable by a **fine of up to \$25,000** per offense (\$50,000 for corporations), **imprisonment** between one and three years or both.

For purposes of these criminal penalties, each day of non-compliance is a separate offense.

ENFORCEMENT

The IWCC may appoint investigators to ensure that employers are in compliance with the IWCA. Investigators have the authority to assess additional **finest of between \$500 and \$2,000** against employers that do not comply with an IWCC citation within 10 days.

The IWCC will hold the officers and directors of corporations personally liable for any fines that remain unpaid after 30 days. The IWCC can also seek reimbursement from a non-compliant employer if, during the time the employer did not have adequate coverage, the IWCC had to use funds from the Injured Workers' Benefit Fund to provide benefits for the employer's workers.

FAILURE TO PROVIDE MEDICAL BENEFITS

Employers must provide adequate and prompt medical care to treat their employees' work-related injuries. Employers that unreasonably, frivolously or intentionally delay or underpay medical compensation may be ordered to pay up to **50 percent** of the amount of compensation that should have been paid.

Employers are exempt from this penalty if they deny medical compensation based on an argument that the extent and scope of the proposed or rendered medical treatment is excessive and unnecessary. Determining whether medical treatment is excessive and unnecessary requires an assessment of the injury and its treatment through an accredited utilization review program. For more information on utilization review programs, visit the Illinois Department of Insurance [website](#).

FRAUD

Employers that intentionally make a false statement or representation regarding a material fact in the course of an investigation, on an injury report or in benefit claim adjustment to avoid paying a claim or benefit face the possibility of **civil penalties, criminal charges** and orders to pay **restitution**.

CIVIL PENALTIES

Parties that suffer a financial loss due to an employer's fraud may sue the employer in civil court and receive compensation equal to **three times** the value of the benefits or insurance coverage obtained through fraud.

If the fraud in question results only in an attempt to increase financial gain or reduce the payment of benefits, parties can recover up to **twice** the amount of compensation that would have been gained or lost. In addition, wronged parties can also obtain **reasonable attorneys' fees** and expenses.

CRIMINAL CHARGES

Under the IWCA, the severity of the charges and the penalties associated with them (fine, imprisonment or both) depends on the amount of benefits obtained through fraud, as shown in the table below:

Fraudulent Compensation	Criminal Charges	Fine	Imprisonment
\$300 or less	Class A misdemeanor	Up to \$2,500 per offense	Less than 1 year
\$300-10,000	Class 3 felony	Up to \$25,000 per offense (\$50,000 for corporations)	2 – 5 years
\$10,000 - \$100,000	Class 2 felony	Up to \$25,000 per offense (\$50,000 for corporations)	3 – 7 years
\$100,000 or more	Class 1 felony	Up to \$25,000 per offense (\$50,000 for corporations)	4 – 15 years

Employers that intentionally seek to avoid payment of workers' compensation benefits to an injured employee or the employee's dependents by transferring, selling, encumbering, assigning, disposing of, concealing or destroying any property may be charged with a **class 4 felony**, which is punishable by a fine of up to **\$25,000** per offense (\$50,000 for corporations), **imprisonment** between one and three years or both.

MONETARY RESTITUTION

In addition to facing civil penalties and criminal charges, employers that commit fraud may be required to compensate their insurance carriers, employees or any other party that sustained a financial loss due to the acts or omissions. Monetary restitution may include:

- Medical evaluation or treatment costs;

- Court costs; and
- Attorney's fees.

MORE INFORMATION

Please contact Heffernan Insurance Brokers for more information on Illinois' workers' compensation requirements.

This guide is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. It is provided for general informational purposes only. Readers should contact legal counsel for legal advice. © 2023 Zywave, Inc. All rights reserved.