

CHAPTER NO. 695

SENATE BILL NO. 2414

By Haynes

Substituted for: House Bill No. 2276

By Kisber

AN ACT To amend Tennessee Code Annotated, Title 38, Chapter 6; Title 50 and Title 56, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-121, is amended by adding the following as a new subsection:

(f) Within its annual report to the General Assembly, the council shall report on activities and outcomes related to the Workers' Compensation Fraud Act, codified as Title 56, Chapter 47. The Departments of Commerce and Insurance, Labor and Workforce Development, the Tennessee Bureau of Investigation and the District Attorneys General Conference shall cooperate with the council in the development of information for inclusion in such report.

SECTION 2. Tennessee Code Annotated, Section 50-6-121(e)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(3) On or before December 15, 2002, the council shall report to the special joint committee on workers' compensation its findings and recommendations, if any, on methods available to control the growth of medical costs within the workers' compensation system.

SECTION 3. Tennessee Code Annotated, Section 50-6-208(b)(2)(B), is amended by deleting the item in its entirety and by substituting instead the following:

(B) Claims against the fund shall be made by either the injured employee or the employer in the manner prescribed in subsection 50-6-206.

SECTION 4. Tennessee Code Annotated, Section 50-6-206(a), is amended by inserting in the eighth sentence of the subsection the language "in an action filed by either the employer or the injured employee" between the language "party defendant to the proceedings" and the language "and an attorney".

SECTION 5. Tennessee Code Annotated, Section 56-5-314(c)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(c)(3) No later than July 1 of each year, the commissioner shall determine whether the membership of the assigned risk pool, created pursuant to subsection 56-5-314(c), for the prior calendar year exceeds fifteen percent (15%) of the membership of the eligible employer market, as based on premium,

excluding self-insured employers and self-insured groups. For any period in which it is determined the membership of the assigned risk pool exceeds fifteen percent (15%) of the membership of the eligible employer market, the commissioner shall issue a report to the advisory council on workers' compensation setting forth the percentage of the eligible employer market insured through the assigned risk pool and the reasons contributing to increased membership of the pool. The report shall include recommendations as to whether:

(A) the competitive state workers' compensation insurance fund, established by Title 50, Chapter 6, Part 6, should be activated;

(B) a plan of direct assignment on a randomized basis of all assigned risk plan policies to insurers offering workers' compensation insurance subject to subdivision (c)(4) should be implemented;

(C) other actions should be taken; or

(D) no action should be taken.

The advisory council shall have ninety (90) days to provide written comments to the commissioner regarding such report and recommendations. After receipt of the advisory council's comments and recommendations, the commissioner shall take such action as deemed appropriate; provided, the commissioner shall hold a hearing before electing to activate the competitive state workers' compensation insurance fund or to institute a plan of direct assignment.

SECTION 6. Tennessee Code Annotated, Section 50-6-121(e), is amended by adding the following language as a new, appropriately designated subdivision:

() On or before January 15, 2003, the council shall study and report on the impact of Tennessee Code Annotated, Section 50-6-110(c), on the payment of a health care provider's claim for emergency and stabilization services provided to an employee covered by workers' compensation and notification of providers of health related to the workplace injury. The council may also recommend proposed legislation to address any problems related to these specific issues.

SECTION 7. Tennessee Code Annotated, Section 50-6-407(a), is amended by deleting the second sentence in its entirety and by substituting instead the following:

The certificate shall remain in force for a period to be fixed by the commissioner, but the commissioner or an agency member appointed by the commissioner may, upon thirty (30) days' notice and an opportunity for a hearing to the employer, revoke the certificate upon the presentation of satisfactory evidence for such revocation.

SECTION 8. Sections 3 and 4 of this act shall take effect on July 1, 2002, and all other provisions of this act shall take effect on becoming law, the public welfare requiring it.

PASSED: April 24, 2002


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 1st day of May 2002


DON SUNDQUIST, GOVERNOR