

Assembly Bill No. 2181

CHAPTER 740

An act to amend Sections 6409.1 and 6410 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2181, Ruskin. Workers' compensation: reports of occupational injury or illness.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment.

Existing law requires an employer to file a complete report of every occupational injury or occupational illness, as defined, to each employee that results in lost time beyond the date of the injury or illness, or that requires medical treatment beyond first aid, with the department, through its Division of Labor Statistics and Research or, if an insured employer, with the insurer, on a form prescribed for that purpose by the Division of Labor Statistics and Research.

This bill would, instead, require an insured employer to file the report with the insurer on a form prescribed by the Administrative Director of the Division of Workers' Compensation. This bill would require a self-insured employer, the state, or the insurer of an insured employer to file the report in an electronic form prescribed for that purpose by the administrative director. The bill would provide that these changes shall become effective upon the effective date of regulations adopted by the administrative director to implement these changes, subject to specified conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 6409.1 of the Labor Code is amended to read:

6409.1. (a) Every employer shall file a complete report of every occupational injury or occupational illness, as defined in subdivision (b) of Section 6409, to each employee which results in lost time beyond the date of the injury or illness, or which requires medical treatment beyond first aid. An insured employer shall file the report with the insurer on a form prescribed by the Administrative Director of the Division of Workers' Compensation for that purpose within five days after the employer obtains knowledge of the injury or illness that has, or is alleged to have, arisen out

of and in the course of employment. A self-insured employer, the state, or the insurer of an insured employer shall file the report in the electronic form prescribed for that purpose by the administrative director pursuant to Section 138.6 within the time prescribed by the administrative director. The administrative director shall ensure that the report required by this subdivision contains necessary information to continue to be acceptable as substitute documentation for purposes of recordkeeping required under the federal Occupational Safety and Health Act of 1970 (29 U.S.C. Sec. 651 et seq.). Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. In the event an employer has filed a report of injury or illness pursuant to this subdivision and the employee subsequently dies as a result of the reported injury or illness, the employer shall file an amended report indicating the death with the Department of Industrial Relations, through its Division of Workers' Compensation or, if an insured employer, with the insurer, within five days after the employer is notified or learns of the death. A copy of any amended reports received by the insurer shall be filed with the Division of Workers' Compensation in electronic form as prescribed by the administrative director.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph. An employer who violates this subdivision may be assessed a civil penalty of not less than five thousand dollars (\$5,000). Nothing in this subdivision shall be construed to increase the maximum civil penalty, pursuant to Sections 6427 to 6430, inclusive, that may be imposed for a violation of this section.

SEC. 2. Section 6410 of the Labor Code is amended to read:

6410. The reports required by subdivision (a) of Section 6409 and Section 6413 shall be made in the form and detail and within the time limits prescribed by reasonable rules and regulations adopted by the Division of Labor Statistics and Research in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this chapter requiring recordkeeping and reporting by employers shall relieve the employer of maintaining records and making reports to the assistant secretary, United States Department of Labor, as required under the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). The Division of Labor Statistics and Research shall prescribe and provide the forms necessary for maintenance of the required records, and the Division of Occupational Safety and Health shall enforce by citation and penalty assessment any violation of the recordkeeping requirements of this chapter.

All state and local government employers shall maintain records and make reports in the same manner and to the same extent as required of other employers by this section.

SEC. 3. The changes to subdivision (a) of Section 6409.1 and Section 6410 of the Labor Code made by this act shall become effective upon the

effective date of regulations adopted by the administrative director to implement the changes made to subdivision (a) of Section 6409.1 of the Labor Code by this act, provided that the regulations specify a transition period of no less than 180 days and no more than 545 days in which the employer or insurer may continue to comply with Section 6409.1 as it was last amended by Chapter 885 of the Statutes of 2002.

O