

AMENDED IN SENATE MARCH 25, 2010

**SENATE BILL**

**No. 1213**

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**Introduced by Senator Cedillo**

February 18, 2010

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An act to amend Section 138.7 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1213, as amended, Cedillo. Electronic access to claims information.

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 regulations require workers' compensation cases to be maintained by the division in an electronic format in the Electronic Adjudication Management System (EAMS), which is defined as the computerized case management system used by the division to store and maintain adjudication files and to perform other case management functions.*

Existing law provides that a person *who*, or public or private entity ~~who~~ *that*, is not a party to a claim for workers' compensation benefits may not obtain individually identifiable information, as defined, that is obtained or maintained by the ~~Division of Workers' Compensation of the Department of Industrial Relations~~ *division* on that claim, except as specified.

This bill would require the division to provide a party to a claim with single sign-on portal real-time electronic programmatic access, at no

charge, to the party’s data and any public records contained within the Electronic Adjudication Management System (EAMS) EAMS.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) There is ongoing interest in technological advancement due  
4 to its influence on the nation’s economic growth, productivity, and  
5 international competitiveness. Because technology can increase  
6 productivity, the state encourages the incorporation of technological  
7 advances where possible.

8 (b) There is a desire for transparency in government. California  
9 should ensure the public trust by establishing a means to provide  
10 for transparency, public participation, and collaboration within  
11 state government. This openness strengthens our democracy, and  
12 promotes government efficiency and effectiveness.

13 (c) California must vigilantly monitor the relationship between  
14 technology and civil liberties to use technology responsibly and  
15 maintain privacy.

16 SEC. 2. Section 138.7 of the Labor Code is amended to read:

17 138.7. (a) Except as expressly permitted in subdivision (b), a  
18 person or public or private entity not a party to a claim for workers’  
19 compensation benefits shall not obtain individually identifiable  
20 information obtained or maintained by the division on that claim.  
21 For purposes of this section, “individually identifiable information”  
22 means any data concerning an injury or claim that is linked to a  
23 uniquely identifiable employee, employer, claims administrator,  
24 or any other person or entity.

25 (b) (1) The administrative director, or a statistical agent  
26 designated by the administrative director, may use individually  
27 identifiable information for purposes of creating and maintaining  
28 the workers’ compensation information system as specified in  
29 Section 138.6.

30 (2) The State Department of Public Health may use individually  
31 identifiable information for purposes of establishing and  
32 maintaining a program on occupational health and occupational

1 disease prevention as specified in Section 105175 of the Health  
2 and Safety Code.

3 (3) (A) Individually identifiable information may be used by  
4 the Division of Workers' Compensation, the Division of  
5 Occupational Safety and Health, and the Division of Labor  
6 Statistics and Research as necessary to carry out their duties. The  
7 administrative director shall adopt regulations governing the access  
8 to the information described in this subdivision by these divisions.  
9 Any regulations adopted pursuant to this subdivision shall set forth  
10 the specific uses for which this information may be obtained.

11 (B) Individually identifiable information maintained in the  
12 workers' compensation information system and the Division of  
13 Workers' Compensation may be used by researchers employed by  
14 or under contract to the Commission on Health and Safety and  
15 Workers' Compensation as necessary to carry out the commission's  
16 research. The administrative director shall adopt regulations  
17 governing the access to the information described in this  
18 subdivision by commission researchers. These regulations shall  
19 set forth the specific uses for which this information may be  
20 obtained and include provisions guaranteeing the confidentiality  
21 of individually identifiable information. Individually identifiable  
22 information obtained under this subdivision shall not be disclosed  
23 to commission members. Individually identifiable information  
24 obtained by researchers under contract to the commission pursuant  
25 to this subparagraph shall not be disclosed to any other person or  
26 entity, public or private, for a use other than that research project  
27 for which the information was obtained. Within a reasonable period  
28 of time after the research for which the information was obtained  
29 has been completed, the data collected shall be modified in a  
30 manner so that the subjects cannot be identified, directly or through  
31 identifiers linked to the subjects.

32 (4) The administrative director shall adopt regulations allowing  
33 reasonable access to individually identifiable information by other  
34 persons or public or private entities for the purpose of bona fide  
35 statistical research. This research shall not divulge individually  
36 identifiable information concerning a particular employee,  
37 employer, claims administrator, or any other person or entity. The  
38 regulations adopted pursuant to this paragraph shall include  
39 provisions guaranteeing the confidentiality of individually  
40 identifiable information. Within a reasonable period of time after

1 the research for which the information was obtained has been  
2 completed, the data collected shall be modified in a manner so that  
3 the subjects cannot be identified, directly or through identifiers  
4 linked to the subjects.

5 (5) This section shall not operate to exempt from disclosure any  
6 information that is considered to be a public record pursuant to  
7 the California Public Records Act (Chapter 3.5 (commencing with  
8 Section 6250) of Division 7 of Title 1 of the Government Code)  
9 contained in an individual's file once an application for  
10 adjudication has been filed pursuant to Section 5501.5.

11 However, individually identifiable information shall not be  
12 provided to any person or public or private entity who is not a  
13 party to the claim unless that person identifies himself or herself  
14 or that public or private entity identifies itself and states the reason  
15 for making the request. The administrative director may require  
16 the person or public or private entity making the request to produce  
17 information to verify that the name and address of the requester  
18 is valid and correct. If the purpose of the request is related to  
19 preemployment screening, the administrative director shall notify  
20 the person about whom the information is requested that the  
21 information was provided and shall include the following in  
22 12-point type:

23  
24 "IT MAY BE A VIOLATION OF FEDERAL AND STATE  
25 LAW TO DISCRIMINATE AGAINST A JOB APPLICANT  
26 BECAUSE THE APPLICANT HAS FILED A CLAIM FOR  
27 WORKERS' COMPENSATION BENEFITS."  
28

29 Any residence address is confidential and shall not be disclosed  
30 to any person or public or private entity except to a party to the  
31 claim, a law enforcement agency, an office of a district attorney,  
32 any person for a journalistic purpose, or other governmental  
33 agency.

34 This paragraph shall not be construed to prohibit the use of  
35 individually identifiable information for purposes of identifying  
36 bona fide lien claimants.

37 (c) Except as provided in subdivision (b), individually  
38 identifiable information obtained by the division is privileged and  
39 shall not be subject to subpoena in a civil proceeding unless, after  
40 reasonable notice to the division and a hearing, a court determines

1 that the public interest and the intent of this section will not be  
2 jeopardized by disclosure of the information. This section shall  
3 not operate to restrict access to information by any law enforcement  
4 agency or district attorney's office or to limit admissibility of that  
5 information in a criminal proceeding.

6 (d) It shall be unlawful for any person who has received  
7 individually identifiable information from the division pursuant  
8 to this section to provide that information to any person who is  
9 not entitled to it under this section.

10 (e) Notwithstanding any other provision of this chapter, the  
11 division shall provide a party to a claim for workers' compensation  
12 benefits with single sign-on portal real-time electronic  
13 programmatic access, at no charge, to the party's data ~~and any~~  
14 ~~public records~~ contained within the Electronic Adjudication  
15 Management System (EAMS).