

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

400J0392

HOUSE BILL NO. 1048

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain requirements regarding workers'
2 compensation insurance.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-20-14 be amended to read as follows:

5 58-20-14. ~~No policy or contract of insurance issued by a stock insurer or mutual association~~
6 ~~against compensation as provided by the title "Workers' Compensation" shall be canceled within~~
7 ~~the time limited in such contract for its expiration until at least ten days after notice of intention~~
8 ~~to cancel such contract, on a date specified in such notice, shall have been filed in the office of~~
9 ~~the State Department of Labor or other officer in charge of the administration of the workers'~~
10 ~~compensation law and shall also have been served on the employer. Such No workers'~~
11 compensation policy may be cancelled for nonpayment of premiums unless notice of the
12 cancellation has been sent by mail to the employer at least ten days prior to the date of
13 cancellation. Any policy cancelled for reasons other than nonpayment of premiums is subject
14 to the provisions of §§ 58-33-59 to 58-33-65.1, inclusive. For any cancellation, the insurer shall
15 provide notice to the Department of Labor at the same time notice is provided to the employer.



1 The notice shall be served on the employer by delivering it to ~~him~~ the employer or by sending
2 it by mail, by registered or certified letter addressed to the employer at ~~his or its~~ the employer's
3 last known place of residence, but if the employer ~~be~~ is a partnership, then such notice may be
4 so given to any one of the partners, and if the employer be a corporation, then the notice may
5 be given to any agent or officer of the corporation upon whom legal process may be served.

6 Section 2. That § 58-20-15 be amended to read as follows:

7 58-20-15. After consultation with insurers authorized to issue workers' compensation
8 policies in this state, the director shall provide or approve a reasonable plan or plans for the
9 equitable apportionment among such insurers of applicants for such workers' compensation
10 policies who are in good faith entitled to but unable to procure such policies through ordinary
11 methods. The director may approve applicants who are only able to procure workers'
12 compensation policies at a rate that substantially exceeds that of the rate in the plan. When any
13 such plans have been made by or been approved by the director, all such insurers shall subscribe
14 thereto and participate therein. Any applicant for any such policy, any person insured under any
15 such plan, and any insurer affected thereby, may appeal to the director from any ruling or
16 decision of the manager or committee designated to operate such plan. Any person aggrieved
17 hereunder by any order or act of the director may, within ten days after notice thereof, file a
18 petition in the circuit court for the county of Hughes, or in the circuit court for the county in
19 which applicant is a resident, for a review thereof. The court shall summarily hear the petition
20 and make any appropriate order or decree.

21 Section 3. That § 58-20-21 be amended to read as follows:

22 58-20-21. Any insurer writing workers' compensation insurance in this state shall offer to
23 conduct or contract for annual workplace safety review services, including review reports with
24 written recommendations for improved safety procedures, to each of its insureds whose policy

1 premium is five thousand dollars or more, unless the employer has five or fewer employees. No
2 written recommendation prepared by an insurer pursuant to this section is subject to discovery
3 or disclosure under chapter 15-6 or any other provision of law or admissible as evidence in any
4 action of any kind in any court or arbitration forum. However, the recommendation may be
5 disclosed to a subsequent insurer of the employer. Compliance with this section does not
6 constitute an undertaking by an insurer to supplant any responsibility its insured may otherwise
7 have for workplace safety. Any employer subject to this section shall have workplace safety
8 reviews conducted by the employer's insurer at least once every three years. If an insurer makes
9 a written recommendation to correct a safety deficiency pursuant to § 58-20-21, including
10 failure to post safety posters as required by § 62-2-11, and it the deficiency has not been
11 corrected at the time of a subsequent safety review, the insured ~~shall be~~ is subject to an
12 appropriate increase in premium as determined by the insurer subject to the approval of the
13 director. The insurer is not responsible for inspecting for compliance with federal or state safety
14 laws or regulations.