

# Workers' Compensation – Employer Penalties

Workers' compensation is a system of no-fault insurance that provides monetary and medical benefits to employees or their survivors for work-related injuries, diseases and deaths. Workers' compensation is governed by state law.

The Indiana Worker's Compensation and Occupational Disease Acts (WC Acts) establish the penalties employers face if they fail to comply with state requirements. The [Workers' Compensation Board of Indiana](#) (Board) enforces compliance with the WC Acts throughout the state.

## **FAILURE TO MAINTAIN WORKERS' COMPENSATION COVERAGE**

The WCA Acts require all employers in Indiana (with narrow exceptions) to maintain workers' compensation coverage for their employees, through either an insurance policy or by qualifying to self-insure.

Employers must provide the Board with written evidence of their compliance with the coverage requirements **every three years** and within **10 days** after a previous policy expires or is cancelled. If an employer fails to file the written evidence, the Board will send a notice of noncompliance with a request for the required documentation. The Board may also request proof that an employer has adequate workers' compensation coverage at any other time.

If an employer does not provide written proof of compliance within **10 days** after receiving a request for it from the Board, the employer may be fined **\$50 per employee** per day.

Employers that fail to maintain adequate workers' compensation coverage may also be charged with a **Class A misdemeanor**. The punishment for a Class A misdemeanor can include **up to one year of incarceration** and a fine of **up to \$5,000**.

In addition, a court may order an employer to temporarily **cease doing business** in Indiana until the employer furnishes proof of adequate coverage and proves it is able to meet all of its obligations for the period of noncompliance.

## **FAILURE TO POST NOTICE OF COVERAGE**

Employers must post notices to inform employees about their rights under the WC Acts. The [notice](#) must contain the name, address and telephone number of the employer's insurance carrier, or, if the employer is self-insured, the person responsible for administering claims. The penalty for failing to post a proper notice is:

- **\$50** for a first violation;
- **\$150** for a second violation; and
- **\$300** for a third or subsequent violation.

## **USING POLICY TERMS TO NEGOTIATE WITH EMPLOYEES**

The WC Acts allow employers to elect deductibles or coinsurance in their workers' compensation policies. However, employers are prohibited from using those elections to negotiate terms of employment with employees. Violations may result in civil penalties of **up to \$1,000**.

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. It broadly summarizes state statutes and regulations generally applicable to private employers, but does not include references to other legal resources unless specifically noted. Readers should contact legal counsel for legal advice.

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## **FAILURE TO KEEP RECORDS OR FILE REPORTS OF INJURY OR DISEASE**

Employers must keep records of all injury or disease claims and provide these records to the Board upon request.

Employers must also file a report with the Board for any claim that results from an injury or disease that causes an employee to be absent from work for more than one day. The timeline for filing these reports depends on whether the employer is self-insured or carries a commercial policy issued by an insurance carrier. Self-insured employers must report within **seven days**, while other employers must file within **14 days**.

Failures to keep or produce records of claims and failures to file the required injury or disease reports with the Board can result in fines of:

- **\$50** for a first violation;
- **\$150** for a second violation; and
- **\$300** for a third or subsequent violation.

## **FAILURE TO PAY DISABILITY BENEFITS**

Employers are required to pay disability benefits to eligible employees **within 14 days** of receiving notice of an injury or disease. Otherwise, an employer must notify the Board that it has denied a claim or that it needs more time to investigate the claim.

Employers that fail to pay disability benefits or make the required notifications in a timely manner are subject to fines of:

- **\$50** for a first violation;
- **\$150** for a second violation; and
- **\$300** for a third and any subsequent violations.

## **BAD FAITH IN ADJUSTING OR SETTLING CLAIMS**

Employers must use diligence and act in good faith when adjusting or settling their employees' workers' compensation claims.

The penalty for acting with a lack of diligence, acting in bad faith or committing an independent tort in adjusting or settling a workers' compensation claim is **between \$500 and \$20,000**. The Board determines the actual amount based on the degree of employer culpability and the affected employee's actual damages.

## **GENERAL WC ACTS VIOLATIONS**

The WC Acts include a blanket prohibition against violating any of its terms.

General violations of the WC Acts, other than failures to carry valid workers' compensation policies (see above), may result in **Class C misdemeanor** charges. Class C misdemeanors are punishable by up to **60 days of incarceration**, a fine of **up to \$500** or both.

## **FRAUD**

Any fraudulent conduct relating to workers' compensation may be punishable as a **felony**, which can result in up to **six years of incarceration**, a fine of **up to \$10,000** or both.

## **MORE INFORMATION**

Contact Touchstone Consulting Group or visit the Board [website](#) for more information on workers' compensation laws in Indiana.