

43:21-14

**LEGISLATIVE HISTORY CHECKLIST**  
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(Workers compensation--proof)

NJSA: 43:21-14

LAWS OF: 1995 CHAPTER: 393

BILL NO: A1136

SPONSOR(S): Minulak

DATE INTRODUCED: January 27, 1994

COMMITTEE: ASSEMBLY: Labor

SENATE: Commerce

AMENDED DURING PASSAGE: No Senate Committee substitute enacted

DATE OF PASSAGE: ASSEMBLY: March 15, 1994

SENATE: December 21, 1995

DATE OF APPROVAL: January 10, 1996

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes

SENATE: Yes

FISCAL NOTE: No

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MESSAGE ON SIGNING: No

**FOLLOWING WERE PRINTED:**

REPORTS: No

HEARINGS: No

BP:pp

[FIRST REPRINT]  
ASSEMBLY, No. 1136  
STATE OF NEW JERSEY

JANUARY 27, 1994

By Assemblymen MIKULAK and ROMA

1 AN ACT requiring certain employers to submit proof of workers'  
2 compensation and amending R.S.43:21-14.

3  
4 BE IT ENACTED by the Senate and General Assembly of the  
5 State of New Jersey:

6 1. R.S.43:21-14 is amended to read as follows:  
7 43:21-14. (a)(1) In addition to such reports as may be required  
8 under the provisions of subsection (g) of [section] R.S.43:21-11 of  
9 this chapter (R.S.43:21-1 et seq.), every employer shall file with  
10 the controller periodical contribution reports on such forms and  
11 at such times as the controller shall prescribe, to disclose the  
12 employer's liability for contributions under the provisions of this  
13 chapter (R.S.43:21-1 et seq.), and at the time of filing each  
14 contribution report shall pay the contributions required by this  
15 chapter (R.S.43:21-1 et seq.), for the period covered by such  
16 report. The controller may require that such reports shall be  
17 under oath of the employer. Any employer who shall fail to file  
18 any report, required by the controller, on or before the last day  
19 for the filing thereof shall pay a penalty of \$5.00 for each day of  
20 delinquency until and including the fifth day following such last  
21 day and for any period of delinquency after such fifth day, a  
22 penalty of \$5.00 a day or 20% of the amount of the contributions  
23 due and payable by the employer for the period covered by the  
24 report, whichever is the lesser; if there be no liability for  
25 contributions for the period covered by any contribution report or  
26 in the case of any report other than a contribution report, the  
27 employer or employing unit shall pay a penalty of \$5.00 a day for  
28 each day of delinquency in filing or \$25.00, whichever is the  
29 lesser; provided, however, that when it is shown to the  
30 satisfaction of the controller that the failure to file any such  
31 report was not the result of fraud or an intentional disregard of  
32 this chapter (R.S.43:21-1 et seq.), or the regulations promulgated  
33 hereunder, the controller, in his discretion, may remit or abate  
34 any unpaid penalties heretofore or hereafter imposed under this  
35 section. On or before October 1 of each year, the controller shall  
36 submit to the Commissioner of Labor a report covering the  
37 12-month period ending on the preceding June 30, and showing  
38 the names and addresses of all employers for whom the controller  
39 remitted or abated any penalties, or ratified any remission or  
40 abatement of penalties, and the amount of such penalties with  
41 respect to each employer. Any employer who shall fail to pay the  
42 contributions due for any period, on or before the date they are

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
1 Assembly floor amendments adopted March 10, 1994.

1 required by the controller to be paid, shall pay interest on the  
2 amount thereof from such date until the date of payment thereof,  
3 at the rate of 1% a month through June 30, 1981 and at the rate  
4 of 1 1/4% a month after June 30, 1981. Upon the written request  
5 of any employer or employing unit, filed with the controller on or  
6 before the due date of any report or contribution payment, the  
7 controller, for good cause shown, may grant, in writing, an  
8 extension of time for the filing of such report or the paying of  
9 such contribution, with interest at the applicable rate; provided  
10 no such extension shall exceed 30 days and that no such extension  
11 shall postpone payment of any contribution for any period beyond  
12 the day preceding the last day for filing tax returns under Title  
13 IX of the federal Social Security Act for the year in which said  
14 period occurs.

15 (2)(A) For the calendar quarter commencing July 1, 1984 and  
16 each successive quarter thereafter, each employer shall file a  
17 report with the controller within 30 days after the end of each  
18 quarter in a form and manner prescribed by the controller, listing  
19 the name, social security number and wages paid to each  
20 employee and the number of base weeks (as defined in subsection  
21 (t) of R.S.43:21-19) worked by the employee during the calendar  
22 quarter.

23 With regard to reports filed by an employer pursuant to this  
24 subparagraph for the calendar quarter commencing <sup>1</sup>(March)  
25 September<sup>1</sup> 1, 1994 and any subsequent quarter:

26 (i) If the employer is not self-insured, the employer shall  
27 attach to the report proof of workers' compensation insurance  
28 coverage; and

29 (ii) If the employer is self-insured, the employer shall attach  
30 to the report a copy of the exemption order issued by the  
31 Commissioner of Insurance pursuant to R.S.34:15-77.

32 Notwithstanding the provisions of subsection (g) of  
33 R.S.43:21-11, the Department of Labor is hereby authorized to  
34 provide the Department of Insurance with information concerning  
35 those employers who have not provided the required proof of  
36 workers' compensation coverage.

37 (B) Any employer who fails without reasonable cause to  
38 comply with the reporting requirements of this paragraph (2) shall  
39 be liable for a penalty in the following amount for each employee  
40 with respect to whom the employer is required to file a report  
41 but who is not included in the report or for whom the required  
42 information is not accurately reported for each employee  
43 required to be included, whether or not the employee is included:

44 (i) For the first failure for one quarter in any eight  
45 consecutive quarters, \$5.00 for each employee;

46 (ii) For the second failure for any quarter in any eight  
47 consecutive quarters, \$10.00 for each employee; and

48 (iii) For the third failure for any quarter in any eight  
49 consecutive quarters, and for any failure in any eight consecutive  
50 quarters, which failure is subsequent to the third failure, \$25.00  
51 for each employee.

52 (C) Information reported by employers as requested by this  
53 paragraph (2) shall be used by the Department of Labor for the  
54 purpose of determining eligibility for benefits of individuals in

1 accordance with the provisions of R.S.43:21-1 et seq.  
2 Notwithstanding the provisions of subsection (g) of R.S.43:21-11,  
3 the Department of Labor is hereby authorized to provide the  
4 Department of Human Services and the Higher Education  
5 Assistance Authority with information reported by employers as  
6 required by this paragraph (2). For each fiscal year, the Director  
7 of the Division of Budget and Accounting of the Department of  
8 the Treasury shall charge the appropriate account of the  
9 Department of Human Services and the Higher Education  
10 Assistance Authority in amounts sufficient to reimburse the  
11 Department of Labor for the cost of providing information under  
12 this subparagraph (C).

13 (D) For the purpose of administering the provisions of this  
14 paragraph (2), all appropriations, files, books, papers, records,  
15 equipment and other property, and employees currently assigned  
16 to the Division of Taxation for the implementation of the "Wage  
17 Reporting Act," P.L.1980, c.48 (C.54:1-55 et seq.), shall be  
18 transferred to the Department of Labor as of September 1, 1984  
19 in accordance with the provisions of the "State Agency Transfer  
20 Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

21 (b) The contributions, penalties, and interest due from any  
22 employer under the provisions of this chapter (R.S.43:21-1 et  
23 seq.), from the time they shall be due, shall be a personal debt of  
24 the employer to the State of New Jersey, recoverable in any  
25 court of competent jurisdiction in a civil action in the name of  
26 the State of New Jersey; provided, however, that except in the  
27 event of fraud, no employer shall be liable for contributions or  
28 penalties unless contribution reports have been filed or  
29 assessments have been made in accordance with subsection (c) or  
30 (d) of this section before four years have elapsed from the last  
31 day of the calendar year with respect to which any contributions  
32 become payable under this chapter (R.S.43:21-1 et seq.), nor shall  
33 any employer be required to pay interest on any such contribution  
34 unless contribution reports were filed or assessments made within  
35 such four-year period; provided further that if such contribution  
36 reports were filed or assessments made within the four-year  
37 period, no civil action shall be instituted, nor shall any certificate  
38 be issued to the Clerk of the Superior Court under subsection (e)  
39 of this section, except in the event of fraud, after six years have  
40 elapsed from the last day of the calendar year with respect to  
41 which any contributions become payable under this chapter  
42 (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later.  
43 Payments received from an employer on account of any debt  
44 incurred under the provisions of this chapter (R.S.43:21-1 et seq.)  
45 may be applied by the controller on account of the contribution  
46 liability of the employer and then to interest and penalties, and  
47 any balance remaining shall be recoverable by the controller from  
48 the employer. Upon application therefor, the controller shall  
49 furnish interested persons and entities certificates of  
50 indebtedness covering employers, employing units and others for  
51 contributions, penalties and interest, for each of which  
52 certificates the controller shall charge and collect a fee of \$2.00  
53 per name; no such certificate to be issued, however, for a fee of  
54 less than \$10.00. All fees so collected shall be paid into the

1 unemployment compensation administration fund.

2 (c) If any employer shall fail to make any report as required by  
3 the rules and regulations of the division pursuant to the provisions  
4 of this chapter (R.S.43:21-1 et seq.), the controller may make an  
5 estimate of the liability of such employer from any information it  
6 may obtain, and, according to such estimate so made, assess such  
7 employer for the contributions, penalties, and interest due the  
8 State from him, give notice of such assessment to the employer,  
9 and make demand upon him for payment.

10 (d) After a report is filed under the provisions of this chapter  
11 (R.S.43:21-1 et seq.) and the rules and regulations thereof, the  
12 controller shall cause the report to be examined and shall make  
13 such further audit and investigation as it may deem necessary,  
14 and if therefrom there shall be determined that there is a  
15 deficiency with respect to the payment of the contributions due  
16 from such employer, the controller shall assess the additional  
17 contributions, penalties, and interest due the State from such  
18 employer, give notice of such assessment to the employer, and  
19 make demand upon him for payment.

20 (e) As an additional remedy, the controller may issue to the  
21 Clerk of the Superior Court of New Jersey a certificate stating  
22 the amount of the employer's indebtedness under this chapter  
23 (R.S.43:21-1 et seq.) and describing the liability, and thereupon  
24 the clerk shall immediately enter upon his record of docketed  
25 judgments such certificate or an abstract thereof and duly index  
26 the same. Any such certificate or abstract, heretofore or  
27 hereafter docketed, from the time of docketing shall have the  
28 same force and effect as a judgment obtained in the Superior  
29 Court of New Jersey, and the controller shall have all the  
30 remedies and may take all the proceedings for the collection  
31 thereof which may be had or taken upon the recovery of such a  
32 judgment in a civil action upon contract in said court. Such debt,  
33 from the time of docketing thereof, shall be a lien on and bind  
34 the lands, tenements and hereditaments of the debtor.

35 The Clerk of the Superior Court shall be entitled to receive for  
36 docketing such certificate, \$0.50, and for a certified transcript of  
37 such docket, \$0.50. If the amount set forth in said certificate as a  
38 debt shall be modified or reversed upon review, as hereinafter  
39 provided, the Clerk of the Superior Court shall, when an order of  
40 modification or reversal is filed, enter in the margin of the  
41 docket opposite the entry of the judgment, the word "modified"  
42 or "reversed," as the case may be, and the date of such  
43 modification or reversal.

44 The employer, or any other party having an interest in the  
45 property upon which the debt is a lien, may deposit the amount  
46 claimed in the certificate with the Clerk of the Superior Court of  
47 New Jersey, together with an additional 10% of the amount  
48 thereof, or \$100.00, whichever amount is the greater, to cover  
49 interest and the costs of court, or in lieu of depositing the  
50 amount in cash, may give a bond to the State of New Jersey in  
51 double the amount claimed in the certificate, and file the same  
52 with the Clerk of the Superior Court. Said bond shall have such  
53 surety and shall be approved in the manner required by the Rules  
54 of the Supreme Court.

1 After the deposit of said money or the filing of said bond, the  
2 employer, or any other party having an interest in the said  
3 property, may, after exhausting all administrative remedies,  
4 secure judicial review of the legality or validity of the  
5 indebtedness or the amount thereof, and the said deposit of cash  
6 shall be as security for, and the bond shall be conditioned to  
7 prosecute, the judicial review with effect.

8 Upon the deposit of said money or the filing of the said bond  
9 with the Clerk of the Superior Court, all proceedings on such  
10 judgment shall be stayed until the final determination of the  
11 cause, and the moneys so deposited shall be subject to the lien of  
12 the indebtedness and costs and interest thereon, and the lands,  
13 tenements, and hereditaments of said debtor shall forthwith be  
14 discharged from the lien of the State of New Jersey and no  
15 execution shall issue against the same by virtue of said judgment.

16 Notwithstanding the provisions of subsections (a) through (c) of  
17 this section, the Department of Labor may, with the concurrence  
18 of the State Treasurer, when all reasonable efforts to collect  
19 amounts owed have been exhausted, or to avoid litigation, reduce  
20 any liability for contributions, penalties and interest, provided no  
21 portion of those amounts represents contributions made by an  
22 employee pursuant to subsection (d) of R.S.43:21-7.

23 (f) If, not later than two years after the calendar year in which  
24 any moneys were erroneously paid to or collected by the  
25 controller, whether such payments were voluntarily or  
26 involuntarily made or made under mistake of law or of fact, an  
27 employer, employing unit, or employee who has paid such moneys  
28 shall make application for an adjustment thereof, the said moneys  
29 shall, upon order of the controller, be either credited or refunded,  
30 without interest, from the appropriate fund. For like cause and  
31 within the same period, credit or refund may be so made on the  
32 initiative of the controller.

33 (g) All interest and penalties collected pursuant to this section  
34 shall be paid into a special fund to be known as the unemployment  
35 compensation auxiliary fund; all moneys in this special fund shall  
36 be deposited, administered and disbursed in the same manner and  
37 under the same conditions and requirements as is provided by law  
38 for other special funds in the State Treasury, and shall be  
39 expended, under legislative appropriation, for the purpose of  
40 aiding in defraying the cost of the administration of this chapter  
41 (R.S.43:21-1 et seq.); for the repayment of any interest bearing  
42 advances made from the federal unemployment account pursuant  
43 to the provisions of section 1202(b) of the Social Security Act, 42  
44 U.S.C. §1322; and for essential and necessary expenditures in  
45 connection with programs designed to stimulate employment, as  
46 determined by the Commissioner of Labor. The Treasurer of the  
47 State shall be ex officio the treasurer and custodian of this  
48 special fund and, subject to legislative appropriation, shall  
49 administer the fund in accordance with the directions of the  
50 controller. Any balances in this fund shall not lapse at any time,  
51 but shall be continuously available, subject to legislative  
52 appropriation, to the controller for expenditure. The State  
53 Treasurer shall give a separate and additional bond conditioned  
54 upon the faithful performance of his duties in connection with the

1 unemployment compensation auxiliary fund, in an amount to be  
2 fixed by the division, the premiums for such bond to be paid from  
3 the moneys in the said special fund.

4 (cf: P.L.1966, c.191, s.1)

5 2. This act shall take effect immediately.

6

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9

10 Requires employers to submit proof of workers' compensation  
11 coverage.

1 unemployment compensation auxiliary fund, in an amount to be  
2 fixed by the division, the premiums for such bond to be paid from  
3 the moneys in the said special fund.

4 (cf. P.L.1988, c.191, s.1)

5 2. This act shall take effect immediately.

6  
7  
8 **STATEMENT**

9  
10 This bill requires that proof of workers' compensation  
11 insurance coverage or proof of exemption from having insurance  
12 by approved self-insurers be submitted along with the quarterly  
13 reports already required in conjunction with the unemployment  
14 system.

15 Current law does not require the automatic submission of proof  
16 of coverage but does allow the Commissioner of Insurance to  
17 request proof of coverage. The automatic submission of proof  
18 required by this bill will not be burdensome to employers since it  
19 only requires the attachment of a certificate of insurance to the  
20 already required unemployment report.

21 The bill is designed to help the Commissioners of Labor and  
22 Insurance to identify uninsured employers and enforce compliance  
23 with the coverage requirements for workers' compensation  
24 insurance.

25  
26  
27  
28  
29 Requires employers to submit proof of workers' compensation  
30 coverage.



**ASSEMBLY LABOR COMMITTEE**

**STATEMENT TO**

**ASSEMBLY, No. 1136**

**STATE OF NEW JERSEY**

**DATED: FEBRUARY 7, 1994**

The Assembly Labor Committee reports favorably Assembly Bill No. 1136.

This bill requires that proof of workers' compensation insurance coverage or proof of exemption from having insurance by approved self-insurers be submitted along with the quarterly reports already required in conjunction with the unemployment system.

Current law does not require the automatic submission of proof of coverage but does allow the Commissioner of Insurance to request proof of coverage. The automatic submission of proof required by this bill will not be burdensome to employers since it only requires the attachment of a certificate of insurance to the already required unemployment report.

The bill is designed to help the Commissioners of Labor and Insurance to identify uninsured employers and enforce compliance with the coverage requirements for workers' compensation insurance.

This bill was introduced in the 1994 legislative session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

CIPPA-1994  
 CI. 1136  
 SR  
 TR  
 MAR 10 1994  
 ASSEMBLY

ASSEMBLY Amendments  
 (Proposed by Assemblyman Mikulak)

to

ASSEMBLY, No. 1136

(Sponsored by Assemblyman Mikulak)

\_\_\_\_\_ Speaker  
 Clerk (3)  
 \_\_\_\_\_ Majority Leader  
 \_\_\_\_\_ Minority Leader  
 \_\_\_\_\_ Sponsor of Aa  
 \_\_\_\_\_ Sponsor of Bill

REPLACE SECTION 1 TO READ:

1. R.S.43:21-14 is amended to read as follows:

43:21-14. (a)(1) In addition to such reports as may be required under the provisions of subsection (g) of [section] R.S.43:21-11 of this chapter (R.S.43:21-1 et seq.), every employer shall file with the controller periodical contribution reports on such forms and at such times as the controller shall prescribe, to disclose the employer's liability for contributions under the provisions of this chapter (R.S.43:21-1 et seq.), and at the time of filing each contribution report shall pay the contributions required by this chapter (R.S.43:21-1 et seq.) for the period covered by such report. The controller may require that such reports shall be under oath of the employer. Any employer who shall fail to file any report, required by the controller, on or before the last day for the filing thereof shall pay a penalty of \$5.00 for each day of delinquency until and including the fifth day following such last day and for any period of delinquency after such fifth day, a penalty of \$5.00 a day or 20% of the amount of the contributions due and payable by the employer for the period covered by the report, whichever is the lesser; if there be no liability for contributions for the period covered by any contribution report or in the case of any report other than a contribution report, the employer or employing unit shall pay a penalty of \$5.00 a day for each day of delinquency in filing or \$25.00, whichever is the lesser; provided, however, that when it is shown to the satisfaction of the controller that the failure to file any such report was not the result of fraud or an intentional disregard of this chapter (R.S.43:21-1 et seq.), or the regulations promulgated hereunder, the controller, in his discretion, may remit or abate any unpaid penalties heretofore or hereafter imposed under this section. On or before October 1 of each year, the controller shall submit to the Commissioner of Labor a report covering the 12-month period ending on the preceding June 30, and showing the names and addresses of all employers for whom the controller remitted or abated any penalties, or ratified any remission or abatement of penalties, and the amount of such penalties with respect to each employer. Any employer who shall fail to pay the contributions due for any period, on or before the date they are

required by the controller to be paid, shall pay interest on the amount thereof from such date until the date of payment thereof, at the rate of 1% a month through June 30, 1981 and at the rate of 1 1/4% a month after June 30, 1981. Upon the written request of any employer or employing unit, filed with the controller on or before the due date of any report or contribution payment, the controller, for good cause shown, may grant, in writing, an extension of time for the filing of such report or the paying of such contribution, with interest at the applicable rate; provided no such extension shall exceed 30 days and that no such extension shall postpone payment of any contribution for any period beyond the day preceding the last day for filing tax returns under Title IX of the Federal Social Security Act for the year in which said period occurs.

(2)(A) For the calendar quarter commencing July 1, 1984 and each successive quarter thereafter, each employer shall file a report with the controller within 30 days after the end of each quarter in a form and manner prescribed by the controller, listing the name, social security number and wages paid to each employee and the number of base weeks (as defined in subsection (i) of R.S.43:21-10) worked by the employee during the calendar quarter.

With regard to reports filed by an employer pursuant to this subparagraph for the calendar quarter commencing <sup>1</sup>(March) September<sup>1</sup> 1, 1984 and any subsequent quarter:

(i) If the employer is not self-insured, the employer shall attach to the report proof of workers' compensation insurance coverage; and

(ii) If the employer is self-insured, the employer shall attach to the report a copy of the exemption order issued by the Commissioner of Insurance pursuant to R.S.34:15-77.

Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the Department of Labor is hereby authorized to provide the Department of Insurance with information concerning those employers who have not provided the required proof of workers' compensation coverage.

(B) Any employer who fails without reasonable cause to comply with the reporting requirements of this paragraph (2) shall be liable for a penalty in the following amount for each employee with respect to whom the employer is required to file a report but who is not included in the report or for whom the required information is not accurately reported for each employee required to be included, whether or not the employee is included:

(i) For the first failure for one quarter in any eight consecutive quarters, \$5.00 for each employee;

(ii) For the second failure for any quarter in any eight consecutive quarters, \$10.00 for each employee; and

(iii) For the third failure for any quarter in any eight consecutive quarters, and for any failure in any eight consecutive quarters, which failure is subsequent to the third failure, \$25.00 for each employee.

(C) Information reported by employers as requested by this paragraph (2) shall be used by the Department of Labor for the purpose of determining eligibility for benefits of individuals in accordance with the provisions of R.S.43:21-1 et seq. Notwithstanding the provisions of subsection (g) of R.S.43:21-11, the Department of Labor is hereby authorized to provide the Department of Human Services and the Higher Education Assistance Authority with information reported by employers as required by this paragraph (2). For each fiscal year, the Director of the Division of Budget and Accounting of the Department of the Treasury shall charge the appropriate account of the Department of Human Services and the Higher Education Assistance Authority in amounts sufficient to reimburse the Department of Labor for the cost of providing information under this subparagraph (C).

(D) For the purpose of administering the provisions of this paragraph (2), all appropriations, files, books, papers, records, equipment and other property, and employees currently assigned to the Division of Taxation for the implementation of the "Wage Reporting Act," P.L.1980, c.48 (C.54:1-55 et seq.), shall be transferred to the Department of Labor as of September 1, 1984 in accordance with the provisions of the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

(b) The contributions, penalties, and interest due from any employer under the provisions of this chapter (R.S.43:21-1 et seq.), from the time they shall be due, shall be a personal debt of the employer to the State of New Jersey, recoverable in any court of competent jurisdiction in a civil action in the name of the State of New Jersey; provided, however, that except in the event of fraud, no employer shall be liable for contributions or penalties unless contribution reports have been filed or assessments have been made in accordance with subsection (c) or (d) of this section before four years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), nor shall any employer be required to pay interest on any such contribution unless contribution reports were filed or assessments made within such four-year period; provided further that if such contribution reports were filed or assessments made within the four-year period, no civil action shall be instituted, nor shall any certificate be issued to the Clerk of the Superior Court under subsection (e) of this section, except in the event of fraud, after six years have elapsed from the last day of the calendar year with respect to which any contributions become payable under this chapter (R.S.43:21-1 et seq.), or July 1, 1958, whichever is later. Payments received from an employer on account of any debt incurred under the provisions of this chapter (R.S.43:21-1 et seq.) may be applied by the controller on account of the contribution liability of the employer and then to interest and penalties, and

any balance remaining shall be recoverable by the controller from the employer. Upon application therefor, the controller shall furnish interested persons and entities certificates of indebtedness covering employers, employing units and others for contributions, penalties and interest, for each of which certificates the controller shall charge and collect a fee of \$2.00 per name; no such certificate to be issued, however, for a fee of less than \$10.00. All fees so collected shall be paid into the unemployment compensation administration fund.

(c) If any employer shall fail to make any report as required by the rules and regulations of the division pursuant to the provisions of this chapter (R.S.43:21-1 et seq.), the controller may make an estimate of the liability of such employer from any information it may obtain, and, according to such estimate so made, assess such employer for the contributions, penalties, and interest due the State from him, give notice of such assessment to the employer, and make demand upon him for payment.

(d) After a report is filed under the provisions of this chapter (R.S.43:21-1 et seq.) and the rules and regulations thereof, the controller shall cause the report to be examined and shall make such further audit and investigation as it may deem necessary, and if therefrom there shall be determined that there is a deficiency with respect to the payment of the contributions due from such employer, the controller shall assess the additional contributions, penalties, and interest due the State from such employer, give notice of such assessment to the employer, and make demand upon him for payment.

(e) As an additional remedy, the controller may issue to the Clerk of the Superior Court of New Jersey a certificate stating the amount of the employer's indebtedness under this chapter (R.S.43:21-1 et seq.) and describing the liability, and thereupon the clerk shall immediately enter upon his record of docketed judgments such certificate or an abstract thereof and duly index the same. Any such certificate or abstract, heretofore or hereafter docketed, from the time of docketing shall have the same force and effect as a judgment obtained in the Superior Court of New Jersey, and the controller shall have all the remedies and may take all the proceedings for the collection thereof which may be had or taken upon the recovery of such a judgment in a civil action upon contract in said court. Such debt, from the time of docketing thereof, shall be a lien on and bind the lands, tenements and hereditaments of the debtor.

The Clerk of the Superior Court shall be entitled to receive for docketing such certificate, \$0.50, and for a certified transcript of such docket, \$0.50. If the amount set forth in said certificate as a debt shall be modified or reversed upon review, as hereinafter provided, the Clerk of the Superior Court shall, when an order of modification or reversal is filed, enter in the margin of the docket opposite the entry of the judgment, the word "modified" or "reversed," as the case may be, and the date of such modification or reversal.

The employer, or any other party having an interest in the property upon which the debt is a lien, may deposit the amount claimed in the certificate with the Clerk of the Superior Court of New Jersey, together with an additional 10% of the amount thereof, or \$100.00, whichever amount is the greater, to cover interest and the costs of court, or in lieu of depositing the amount in cash, may give a bond to the State of New Jersey in double the amount claimed in the certificate, and file the same with the Clerk of the Superior Court. Said bond shall have such surety and shall be approved in the manner required by the Rules of the Supreme Court.

After the deposit of said money or the filing of said bond, the employer, or any other party having an interest in the said property, may, after exhausting all administrative remedies, secure judicial review of the legality or validity of the indebtedness or the amount thereof, and the said deposit of cash shall be as security for, and the bond shall be conditioned to prosecute, the judicial review with effect.

Upon the deposit of said money or the filing of the said bond with the Clerk of the Superior Court, all proceedings on such judgment shall be stayed until the final determination of the cause, and the moneys so deposited shall be subject to the lien of the indebtedness and costs and interest thereon, and the lands, tenements, and hereditaments of said debtor shall forthwith be discharged from the lien of the State of New Jersey and no execution shall issue against the same by virtue of said judgment.

Notwithstanding the provisions of subsections (a) through (c) of this section, the Department of Labor may, with the concurrence of the State Treasurer, when all reasonable efforts to collect amounts owed have been exhausted, or to avoid litigation, reduce any liability for contributions, penalties and interest, provided no portion of those amounts represents contributions made by an employee pursuant to subsection (d) of R.S.43:21-7.

(f) If, not later than two years after the calendar year in which any moneys were erroneously paid to or collected by the controller, whether such payments were voluntarily or involuntarily made or made under mistake of law or of fact, an employer, employing unit, or employee who has paid such moneys shall make application for an adjustment thereof, the said moneys shall, upon order of the controller, be either credited or refunded, without interest, from the appropriate fund. For like cause and within the same period, credit or refund may be so made on the initiative of the controller.

(g) All interest and penalties collected pursuant to this section shall be paid into a special fund to be known as the unemployment compensation auxiliary fund; all moneys in this special fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury, and shall be expended, under legislative appropriation, for the purpose of aiding in defraying the cost of the administration of this chapter

(R.S.43:21-1 et seq.): for the repayment of any interest bearing advances made from the federal unemployment account pursuant to the provisions of section 1202(b) of the Social Security Act, 42 U.S.C. §1332; and for essential and necessary expenditures in connection with programs designed to stimulate employment, as determined by the Commissioner of Labor. The Treasurer of the State shall be ex officio the treasurer and custodian of this special fund and, subject to legislative appropriation, shall administer the fund in accordance with the directions of the controller. Any balances in this fund shall not lapse at any time, but shall be continuously available, subject to legislative appropriation, to the controller for expenditure. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the unemployment compensation auxiliary fund, in an amount to be fixed by the division, the premiums for such bond to be paid from the moneys in the said special fund.

✓  
OK (cf: P.L. 1986, c. 191, s. 1)

STATEMENT

These Assembly amendments to Assembly, No. 1136 change the date on which employers are required to give evidence of workers' compensation coverage from March 1, 1984 to September 1, 1984. ✓

**SENATE COMMERCE COMMITTEE**  
**STATEMENT TO**  
**SENATE COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 1136**  
**STATE OF NEW JERSEY**

**DATED: SEPTEMBER 28, 1995**

The Senate Commerce Committee reports favorably Senate Committee Substitute for Assembly, No. 1136.

This bill, a Senate Committee Substitute for Assembly, No. 1136, provides for a verification system to identify those employers who fail to obtain workers' compensation coverage. It provides for the identification of employers who are not insured for workers' compensation by cross-referencing the records of the Compensation and Inspection Bureau in the Department of Insurance, which has a record of employers with workers' compensation, with employer records of the Department of Labor.

The bill requires all workers' compensation insurers to include an employer identification number (which shall be assigned by the Department of Labor) on policies of insurance to be filed with the Compensation Rating and Inspection Bureau. For those employers who are exempt from the unemployment insurance law but have workers' compensation coverage, an employer identification number would be assigned. The Compensation Rating and Inspection Bureau would record the employer identification numbers received from insurers. The Department of Insurance would also provide the Division of Workers' Compensation a complete list of employers who are self-insured for workers' compensation. This employer information would then be cross-referenced with the employer list in the Department of Labor.

The law currently provides that an employer who "willfully" fails to carry workers' compensation coverage is guilty of a crime of the fourth degree. This bill maintains that provision but provides as a lesser offense that an employer who fails to carry workers' compensation is guilty of a disorderly persons offense.

The bill also provides that failure to produce proof of workers' compensation coverage at the time of the trial of an employer accused of being uninsured creates a rebuttable presumption that the employer was uninsured.

The current law provides that the Director of the Division of Workers' Compensation may levy an assessment of \$1,000 on an employer who has failed to make provisions for the payment of workers' compensation for 10 or more consecutive days and when the period exceeds 20 days, an assessment of \$1,000 for each period of 10 days thereafter. The bill makes these provisions mandatory and changes the assessment amounts from \$1,000 to up to \$1,000.

The committee made a technical amendment to R.S.34:15-79 to correct an error made by P.L.1988, c.25.



SENATE COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 1136 (1R)

ADOPTED  
SEP 28 1995

STATE OF NEW JERSEY

By Assemblymen MIKULAK and ROMA

AN ACT concerning the enforcement of the workers' compensation law and amending R.S. 34:15-79 and supplementing chapter 15 of Title 34 of the Revised Statute.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. R.S. 34:15-79 is amended to read as follows:

~~R.S. 34:15-79. Penalties for failure to carry insurance.~~

An employer who [willfully] fails to provide the protection prescribed in this article shall be guilty of a disorderly persons offense and shall be guilty of a crime of the fourth degree if such failure is willful. In cases where a workers' compensation award in the Division of Workers' Compensation of New Jersey against the defendant is not paid at the time of the sentence, the court may suspend sentence upon that defendant and place him on probation for any period with an order to pay the delinquent compensation award to the claimant through the probation office of the county. Where the employer is a corporation, the president, secretary, and the treasurer thereof who are actively engaged in the corporate business shall be liable for failure to secure the protection prescribed by this article. Any contractor placing work with a subcontractor shall, in the event of the subcontractor's failing to carry workers' compensation insurance as required by this article, become liable for any compensation which may be due an employee or the dependents of a deceased employee of a subcontractor. The contractor shall then have a right of action against the subcontractor for reimbursement.

Failure to produce at the time of the trial proof of workers' compensation insurance coverage by a mutual association or stock company authorized to write coverage on such risks in this State or written authorization by the Commissioner of Insurance to self-insure for workers' compensation pursuant to R.S. 34:15-77, which was in force for the time cited by the Department of Labor, creates a rebuttable presumption that the employer was uninsured when charged with a violation of this section.

All fines collected under the terms of this section shall be paid to the State Treasurer and credited on the records of the State Comptroller to the account of the Division of Vocational Rehabilitation Services in the Department of Labor, to be used in carrying out the provisions of P.L. 1955, c. 64 (C. 34:16-20 et seq.).

The Director of the Division of Workers' Compensation, or any officer or employee of the division designated by him, upon finding that an employer has failed for a period of not less than 10 consecutive days to make the provisions for payment of

compensation required by R.S. 34:15-71 and R.S. 34:15-72, [may] shall impose upon that employer, in addition to all other penalties, fines or assessments provided for in chapter 15 of Title 34 of the Revised Statutes or in any supplement thereto, an assessment in the amount of up to \$1,000.00 and when the period exceeds 20 days, an additional assessment of up to \$1,000.00 for each period of 10 days thereafter. All assessments under this act shall be [collectible in a court of competent jurisdiction in a summary civil proceeding and] enforced and collected in accordance with section 12 of P.L. 1966, c. 126 (C. 34:15-120.3). All penalties and assessments collected under this section shall be paid into the "uninsured employer's fund." (cf: P.L.1988, c.25, s.13)

2. (New section) a. On or before March 1, 1996 and thereafter, the Compensation Rating and Inspection Bureau shall notify all mutual associations and stock companies authorized to write workers' compensation or employer's liability insurance on risks located in this State of the requirements of subsections b. and c. of this section.

b. On and after July 1, 1996, all mutual associations and stock companies authorized to write workers' compensation or employer's liability policies on risks located in this State shall, upon application for new policies or renewal of any existing policies, require submission of the employer identification number as assigned by the Department of Labor pursuant to the provisions of the "unemployment compensation law," R.S. 43:21-1 et seq., by each employer and shall maintain the identification number in their records and shall include the identification number on policies of insurance to be filed with the Compensation Rating and Inspection Bureau.

If the employer has been exempted from or is otherwise not subject to the provisions of the "unemployment compensation law," the mutual association or stock company writing workers' compensation insurance or employer's liability insurance coverage on risks of that employer shall, in a form and manner prescribed by the Department of Labor, assign an identification number to that employer.

If an employer fails or refuses to comply with the reporting requirements of this subsection, the mutual association or stock company shall immediately notify the Division of Workers' Compensation of such failure or refusal. Failure or refusal without reasonable cause shall result in the assessment of a penalty of up to \$1,000 for each failure or refusal which shall be enforceable on a petition filed by the "uninsured employer's fund" in a summary proceeding before a judge of compensation upon notice to the employer and the proceeds of which shall be paid into the "uninsured employer's fund."

c. On and after July 1, 1996 the Compensation Rating and Inspection Bureau shall record and maintain the employer identification numbers received from mutual associations and stock companies pursuant to subsection b. of this section. The bureau shall, upon request of the Division of Workers' Compensation, provide to the division information, in a form and manner as prescribed by the division, with respect to the workers' compensation or employer's liability insurance coverage status of employers in this State, including the employer identification numbers.

OK  
d. On or before March 1, 1996 the Department of Insurance shall provide to the Division of Workers' Compensation a complete list of all employers engaged in business in this State who have been authorized, pursuant to the provisions of R.S. 34:15-77 et seq., to self-insure for the payment of compensation. After that date, the department shall continue to provide notification to the division, in a form and manner as prescribed by the division, of any newly approved self-insured employer or the rescision of the authority for any previously approved employer to self-insure.

3. This act shall take effect immediately.

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Provides for cross-check of employer identification number to find employers without workers' compensation coverage.