

5220.2865 FAILURE TO INSURE; PENALTY.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meanings given them.

A. "Avoided premium" means the workers' compensation insurance premium computed pursuant to Minnesota Statutes, chapter 79, by multiplying the employer's payroll for the uninsured period by the applicable assigned risk plan workers' compensation insurance rate and adjusted for any applicable experience modification.

B. "Objection" means the written objection filed by an employer with the commissioner pursuant to Minnesota Statutes, section 176.181, subdivision 3.

C. "Order to comply and notice of penalty assessment" means the order to comply and notice of penalty assessment issued by the commissioner and issued to the employer under Minnesota Statutes, section 176.181, subdivision 3.

Subp. 2. **Determination of penalty.** In determining the amount of the administrative penalty for the failure to insure, the commissioner must take into consideration the factors listed in Minnesota Statutes, section 14.045. The basis for determining the penalty shall be the employer's avoided premium which shall be adjusted by the factors listed in Minnesota Statutes, section 14.045.

A. No uninsured employer shall be assessed an administrative penalty of less than \$200, nor more than \$1,000 per employee per week uninsured.

B. For purposes of this subpart, the ability to pay shall not be considered a factor for adjusting the penalty amount.

Subp. 3. **Business license or permit penalty.** In addition to the assessed administrative penalty, the commissioner shall assess the penalty amount specified in Minnesota Statutes, section 176.182, against the uninsured employer who did not report, or falsely reported, the required information about their workers' compensation insurance coverage to any state or local governmental agency when obtaining or renewing a license or permit to operate a business in Minnesota.

Subp. 4. **Order to comply and penalty assessment.** The commissioner shall, by certified mail, issue to the employer an order to comply and penalty assessment after conducting the investigation authorized by Minnesota Statutes, section 176.181, subdivision 8, paragraph (b).

Subp. 5. **Contents of order.** An order to comply and penalty assessment must describe the alleged violations and reference the statute or rule which the employer has violated. The order to comply and penalty assessment must state that the employer has ten working days to object to the order by filing a written objection with the commissioner and stating in detail its reasons for objecting.

Subp. 6. **Objections.** The objection must contain:

- A. the employer's name and address;
- B. the investigation number; and
- C. a detailed statement of the reasons for objecting.

Subp. 7. **Filing.** The written objection must be filed with the commissioner within ten working days of the date the employer receives the order to comply and penalty assessment. Upon receipt of a timely objection, the commissioner shall attempt to settle informally an agreed upon penalty. If the parties fail to agree, the commissioner shall refer the matter to the Office of Administrative Hearings for an expedited hearing before a compensation judge. An objection may be filed with the commissioner by postage-paid first class mail, personal delivery, or facsimile transmission.

Subp. 8. **Hearing.** The compensation judge shall use the contested case procedures contained in Minnesota Statutes, sections 14.57 to 14.62, in conducting the expedited hearing under Minnesota Statutes, section 176.181, subdivision 3.

Statutory Authority: *MS s 175.17; 175.171; 176.129; 176.138; 176.221; 176.225; 176.231; 176.238; 176.83; 176.84*

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