

Act No. 118
Public Acts of 1993
Approved by the Governor
July 20, 1993
Filed with the Secretary of State
July 20, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senator Honigman

ENROLLED SENATE BILL No. 90

AN ACT to amend sections 641 and 645 of Act No. 317 of the Public Acts of 1969, entitled as amended "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," section 641 as amended by Act No. 157 of the Public Acts of 1990 and section 645 as amended by Act No. 103 of the Public Acts of 1985, being sections 418.641 and 418.645 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 641 and 645 of Act No. 317 of the Public Acts of 1969, section 641 as amended by Act No. 157 of the Public Acts of 1990 and section 645 as amended by Act No. 103 of the Public Acts of 1985, being sections 418.641 and 418.645 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 641. (1) An employer who fails to comply with the provisions of section 611 is guilty of a misdemeanor and may be fined not more than \$1,000.00, or imprisoned for not more than 6 months, or both. Each day's failure is a separate offense.

(2) The employee of an employer who violates the provisions of section 171 or 611 shall be entitled to recover damages from the employer in a civil action because of an injury that arose out of and in the course of employment notwithstanding the provisions of section 131.

(3) The director of the bureau shall have the right and obligation to recover on behalf of the workplace health and safety fund from an uninsured employer in a civil action the amounts provided in section 723. If the employer is a corporation, the officers and directors of the corporation shall be individually and jointly and severally liable for any portion of the obligation and expenses that are not satisfied by the corporation.

(4) Any amounts collected pursuant to subsection (3) shall be paid to the uninsured employer's security account within the workplace health and safety fund established in sections 722 and 723.

(5) For the purposes of this section, the director shall be considered a party as described in section 863.

(6) Subsections (3), (4), and (5) shall apply to injuries that occur on or after June 29, 1990.

Sec. 645. (1) The director may file a complaint in the circuit court for the county in which the employer is located, or in the circuit court for Ingham county, requesting the relief permitted by this section against an employer that has failed, at any time within the immediately preceding 3 years, to comply with section 611.

(2) If the director's complaint alleges that the employer's liability is currently uninsured, there shall immediately be served on the employer an order to show cause why the employer should not be restrained from employing any person in his or her business pending the proceedings or until the employer shall have satisfied the court that the employer has complied with the provisions of section 171 or 611. The order to show cause shall be returnable before the court at a time to be fixed in the order not less than 24 hours nor more than 7 days after its issuance.

(3) Upon a complaint filed pursuant to subsection (1), an injunction shall be issued unless the employer proves that he or she is not subject to the provisions of this act or furnishes a surety company bond in an amount to secure all of the liability of the employer under this act. An injunction issued against an employer under this subsection shall perpetually enjoin the employer from employing any person in his or her business at any time the employer is not complying with section 171 or 611.

(4) The director's complaint may seek a civil fine of not more than \$1,000.00 per day against an employer who has failed, at any time within the immediately preceding 3 years, to comply with section 611, whether or not the employer is currently in noncompliance. A civil fine shall be assessed by the court of not more than \$1,000.00 for each day the court finds the employer not to have been in compliance with section 611.

(5) A civil fine collected pursuant to this section shall be paid to the worker's compensation administrative revolving fund established by section 835a.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.