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POLICY BRIEF

A Reform of Workers' Compensation Insurance

Massachusetts Department of Industrial Accidents

Introduction

The Massachusetts Department of Industrial Accidents has implemented numerous reforms that have improved the safety of workplaces throughout the state since Governor Mitt Romney's election in 2002. In the process, the DIA has reduced the number companies that do not adhere to the state's worker compensation laws.

The Problem

Massachusetts requires that all companies with one or more employees have worker's compensation insurance in the event of an on-the-job injury. The DIA is responsible for enforcing worker's compensation laws, and making sure that all companies carry worker's compensation insurance. The DIA's scope of responsibility in this area is fairly clear, as detailed in the following entry from the Massachusetts Code of Regulations:

"Pursuant to M.G.L. c. 152, §25C, the Division of Industrial Accidents (DIA) Office of Investigations shall investigate those businesses, organizations, or other entities that employ one or more persons, be it full or part-time, as defined by M.G.L. c. 152, §1 and determine if said business, organization, or entity has obtained the proper workers' compensation insurance coverage. If the Office of Investigations determines that any business, organization, or other entity has failed to obtain a workers' compensation policy for its employees then a Stop Work Order (SWO) shall be issued and appropriate fines shall be levied."[1]

Unfortunately, for many years SWOs were not enforced, and associated

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fines were not collected. Throughout the decade leading up to Governor Romney's election, a paltry 40 percent of SWOs were complied with, and a shocking 7 percent of fines were collected.[2]

The Solution, and its Relevance to Other States

Romney's election started a new era at the DIA, and the reformed organization achieved what is usually impossible in government – a 100 percent success rate. Other state agencies here and across the country could take a lesson from the DIA model.

The DIA's criteria for investigation have not changed. In a 2005 article for *Worker's Comp*, Gregory White wrote, "Leads can come from an employee of the company, competitor, or the Massachusetts Rating Bureau. The lead is assigned to an investigator in the area where the business is located who then conducts an investigation."[3] An SWO is issued when a company is found not to be in compliance with worker's compensation insurance regulations. For every day a business is not in compliance with the law, it is fined $100. If a business does not comply with the SWO, the DIA will then seek a criminal complaint in the jurisdiction where the business is located. Conviction is punishable by a fine of up to $1,500 and a jail sentence of up to one year.

The DIA also pursues civil remedies for those businesses that continue to operate in violation of an SWO. The DIA has, especially since 2002, brought many cases to court. This kind of aggressive enforcement was not characteristic of the DIA prior to 2002. The DIA's efforts, however, can be described as being part "carrot" and part "stick." By communicating through various media via a public awareness campaign and signing Bob Vila as a spokesperson, the DIA is working to get companies to purchase workers compensation insurance before they become the target of a DIA investigation. This means fewer cases to investigate and a safer workplace for the Commonwealth's labor force.

Conclusion

Workers' compensation insurance is an essential component of the modern economy. Lax enforcement and violation of SWOs is both a threat to workers' safety and a competitive disadvantage for the vast majority of employers, who play by the rules. By aggressively prosecuting violations of SWOs, DIA has made the Commonwealth a safer place to work, and a more attractive place to do business.

Works Cited

1. 452 Code of Massachusetts Regulations, Chapter 8: Office of Investigations

2. Chapman, John, MA DIA Commissioner, Draft of Submission to 2005 BGC, 3/14/2005

3. White, Gregory. Worker's Comp March 14, 2005

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