

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 988*

Short Title: Safety and Health Fund.

(Public)

Sponsors: Senators Plyler, Conder, Martin of Guilford, Smith, Plexico, Sands; and Daniel.

Referred to: Appropriations.

May 27, 1992

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A SAFETY AND HEALTH FUND TO FUND THE OPERATIONS OF CERTAIN STATE SAFETY-RELATED PROGRAMS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 97-100 reads as rewritten:

"§ 97-100. Rates for insurance; carrier to make reports for determination of solvency; tax upon premium; returned or canceled premiums; reports of premiums collected; wrongful or fraudulent representation of carrier punishable as misdemeanor; notices to carrier; employer who carries own risk shall make report on payroll.

(a) The rates charged by all carriers of insurance, including the parties to any mutual insurance association writing insurance against the liability for compensation under this Article, shall be fair, reasonable, and adequate.

(b) Each such insurance carrier shall report to the Commissioner of Insurance, in accordance with such reasonable rules as the Commissioner of Insurance may at any time prescribe, for the purpose of determining the solvency of the carrier and the adequacy of its rates; for such purpose the Commissioner of Insurance may inspect the books and records of such insurance carrier, and examine its agents, officers, and directors under oath.

(c) Every person, partnership, association, corporation, whether organized under the laws of this or any other state or country, every mutual company or association and every other insurance carrier insuring employers in this State against liability for personal injuries to their employees, or death caused thereby, under the provisions of

1 this Article, shall, as hereinafter provided, pay a tax upon the premium received,
2 whether in cash or notes, in this State, or on account of business done in this State, for
3 such insurance in this State, at the rate provided in the Revenue Act then in force, which
4 tax shall be in lieu of all other taxes on such premiums, which tax shall be assessed and
5 collected as hereinafter provided; provided, however, that such insurance carriers shall
6 be credited with all canceled or returned premiums actually refunded during the year on
7 such insurance.

8 (d) Every such insurance carrier shall, for the six months ending December 31,
9 1929, and annually thereafter, make a return, verified by the affidavit of its president
10 and secretary, or other chief officers or agents, to the Commissioner of Insurance,
11 stating the amount of all such premiums and credits during the period covered by such
12 return. Every insurance carrier required to make such return shall file the same with the
13 Commissioner of Insurance on or before the first day of April after the close of the
14 period covered thereby, and shall at the same time pay to the State Insurance
15 Commissioner the tax provided in the Revenue Act then in force on such premium
16 ascertained, as provided in subsection (c) hereof, less returned premium on canceled
17 policies.

18 (e) If any such insurance carrier shall fail or refuse to make the return required by
19 this Article, the said Commissioner of Insurance shall assess the tax against such
20 insurance carrier at the rate herein provided for, on such amount of premium as he may
21 deem just, and the proceedings thereon shall be the same as if the return had been made.

22 (f) If any such insurance carrier shall withdraw from business in this State before
23 the tax shall fall due, as herein provided, or shall fail or neglect to pay such tax, the
24 Commissioner of Insurance shall at once proceed to collect the same; and he is hereby
25 empowered and authorized to employ such legal process as may be necessary for that
26 purpose, and when so collected he shall pay the same into the State treasury. The suit
27 may be brought by the Commissioner of Insurance, in his official capacity, in any court
28 of this State having jurisdiction. Reasonable attorney's fees may be taxed as costs
29 therein, and process may issue to any county of the State, and may be served as in civil
30 actions, or in case of unincorporated associations, partnerships, interindemnity
31 contracts, upon any agent of the parties thereto upon whom process may be served
32 under the laws of this State.

33 (g) Any person or persons who shall in this State act or assume to act as agent for
34 any such insurance carrier whose authority to do business in this State has been
35 suspended, while such suspension remains in force, or shall neglect or refuse to comply
36 with any of the provisions of this section obligatory upon such person or party or who
37 shall willfully make a false or fraudulent statement of the business or condition of any
38 such insurance carrier, or false or fraudulent return as herein provided, shall be deemed
39 guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less
40 than one hundred (\$100.00) nor more than one thousand dollars (\$1,000), or by
41 imprisonment for not less than 10 nor more than 90 days, or both such fine and
42 imprisonment in the discretion of the court.

43 (h) Whenever by this Article, or the terms of any policy contract, any officer is
44 required to give any notice to an insurance carrier, the same may be given by delivery,

1 or by mailing by registered letter properly addressed and stamped, to the principal office
2 or general agent of such insurance carrier within this State, or to its home office, or to
3 the secretary, general agent, or chief officer thereof in the United States, or the State
4 Insurance Commissioner.

5 (i) Any insurance carrier liable to pay a tax upon premiums under this Article
6 shall not be liable to pay any other or further tax upon such premiums, under any other
7 law of this State.

8 (j) Every employer carrying his own risk under the provisions of G.S. 97-93
9 shall, under oath, report to the Commissioner of Insurance his payroll, subject to the
10 provisions of this Article. Such report shall be made in form prescribed by the
11 Commissioner of Insurance, and at the times herein provided for premium reports by
12 insurer. The Commissioner of Insurance shall assess against such payroll a maintenance
13 fund tax computed by taking such percent of the basic premiums charged against the
14 same or most similar industry or business taken from the manual insurance rate then in
15 force in this State as is assessed in the Revenue Act against the insurance carriers for
16 premiums collected on compensation insurance policies. The Commissioner shall use
17 the approved experience modifier of an employer in calculating the employer's
18 maintenance fund tax liability under this subsection. ~~Receipts collected under this~~
19 ~~subsection shall be deposited to the credit of the State Treasurer as general fund revenue.~~

20 (k) Every group of two or more employers who have pooled their liabilities
21 pursuant to G.S. 97-93 shall pay a tax upon premiums received in this State in the same
22 manner as the tax is calculated and paid by insurance carriers insuring employers in this
23 State and set forth in subsections (c), (d), (e), and (f) above.

24 (l) A special Safety and Health Fund is created in the Office of the State
25 Treasurer for the purpose of collecting revenue to be distributed for use by State
26 agencies in the enforcement of their safety and health responsibilities.

27 The funds generated by the tax on premiums collected by the Commissioner of
28 Insurance pursuant to subsections (d), (j), and (k) of this section shall be remitted to the
29 Safety and Health Fund to provide funding, at levels established by the General
30 Assembly, for the following agencies or programs:

31 (1) The Industrial Commission.

32 (2) The Department of Labor for the operation of the Occupational Safety
33 and Health program at federally-approved benchmark levels and the
34 Mine Safety and Health program.

35 (3) The Department of Environment, Health, and Natural Resources for
36 the operation of the Occupational Health program.

37 Interest derived from the Fund shall be credited to the Fund. Fees, assessments,
38 penalties, and other sources of revenue collected by these agencies on behalf of the
39 programs specified herein shall also be deposited in the Fund unless required by law to
40 be remitted elsewhere.

41 The special Safety and Health Fund shall be subject to the provisions of the
42 Executive Budget Act. The General Assembly shall appropriate from the monies
43 available in the Fund sufficient amounts to fund the programs specified herein and may
44 use the balance for any lawful purpose.

1 The premium tax monies credited to the Fund shall not be considered a special
2 purpose obligation or assessment based on premium tax, or a dedicated special purpose
3 tax based on premium tax, within the meaning of G.S. 105-228.8(e)."

4 Sec. 2. Appropriations and receipts from the General Fund to the Industrial
5 Commission, the Department of Labor and the Department of Environment, Health, and
6 Natural Resources for the programs listed herein for the fiscal year 1992-93 shall be
7 reimbursed to the General Fund from the special Safety and Health Fund.

8 Sec. 3. This act becomes effective July 1, 1992.