

AMENDED IN ASSEMBLY APRIL 6, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1697

Introduced by Committee on Insurance (Assembly Members Daly (Chair), Melendez (Vice Chair), Bigelow, Caballero, Calderon, Chu, Cooley, Cooper, Dababneh, and Frazier)

February 27, 2017

An act to ~~amend Section 3720.1 of~~ *add Section 139.8* to the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as amended, Committee on Insurance. Workers' compensation.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, within the Department of Industrial Relations, to compensate an employee for injuries sustained in the course of his or her employment. Existing law makes it a crime to commit various acts of fraud relating to workers' compensation, including to knowingly make or cause to be made a false or fraudulent claim for payment of workers' compensation health benefits.

Existing law creates the Fraud Division, within the Department of Insurance, to administer provisions related to insurance fraud. Existing law requires the Insurance Commissioner to ensure that the Fraud Division aggressively pursues all reported incidents of probable workers' compensation fraud.

This bill would require the administrative director to establish an antifraud support unit within the Division of Workers' Compensation. The bill would set forth the duties of the unit, including coordinating

and advancing antifraud activities for the division and serving as the point of contact between the division and other agencies and entities engaged in antifraud activities.

~~Existing law requires every employer except the state to secure the payment of compensation by being insured against liability to pay compensation, as specified, and vests enforcement of those provisions in the Director of Industrial Relations. Existing law authorizes the director to record a certificate of lien in the office of the county recorder in the counties where the employer’s property is possibly located, as specified, if a determination is made that an employer has not secured the payment of compensation as required or is prima facie illegally uninsured. Existing law additionally authorizes the director to determine whether a person is prima facie a parent or substantial shareholder in any claim in which the alleged uninsured employer is a corporation, for purposes of filing certificates of lien and holding those persons jointly and severally liable with the corporation in a civil action against the corporation. Existing law authorizes a person who is aggrieved by such a finding to request a hearing by filing a written request for hearing with the director. Existing law requires the director to hold that hearing within 20 days of the receipt of the request for hearing.~~

~~This bill would require the director to hold that hearing within 30 days, rather than 20 days, of the receipt of the request for hearing.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 139.8 is added to the Labor Code, to read:
- 2 139.8. The administrative director shall establish an antifraud
- 3 support unit within the division. The unit shall perform all of the
- 4 following duties:
- 5 (a) Coordinate and advance antifraud activities for the division.
- 6 (b) Serve as the point of contact between the division and other
- 7 agencies and entities engaged in antifraud activities.
- 8 (c) Act as the repository and clearinghouse for data on antifraud
- 9 activities.
- 10 (d) Ensure the efficient sharing of data among the division,
- 11 other agencies, and other entities engaged in antifraud activities.
- 12 (e) Research fraud in the workers’ compensation system.

1 SECTION 1. Section 3720.1 of the Labor Code is amended to
2 read:

3 ~~3720.1. (a) In any claim in which the alleged uninsured~~
4 ~~employer is a corporation, for purposes of filing certificates of lien~~
5 ~~pursuant to Section 3720, the director may determine, according~~
6 ~~to the evidence available to him or her, whether a person is prima~~
7 ~~facie a parent or substantial shareholder, as defined in Section~~
8 ~~3717. A finding that a person was prima facie a parent or~~
9 ~~substantial shareholder shall be made when the director determines~~
10 ~~that there is sufficient evidence to constitute a prima facie case~~
11 ~~that the person was a parent or substantial shareholder.~~

12 ~~(b) Any person aggrieved by a finding of the director that he or~~
13 ~~she was prima facie a parent or substantial shareholder may request~~
14 ~~a hearing on the finding by filing a written request for hearing with~~
15 ~~the director. The director shall hold a hearing on the matter within~~
16 ~~30 days of the receipt of the request for hearing, and shall mail a~~
17 ~~notice of time and place of hearing to the person requesting hearing~~
18 ~~at least 10 days prior to the hearing. The hearing officer shall hear~~
19 ~~and receive evidence, and within 10 days of the hearing, file his~~
20 ~~or her findings on whether there is sufficient evidence to constitute~~
21 ~~a prima facie case that the person was a substantial shareholder or~~
22 ~~parent. The hearing officer shall serve with his or her findings a~~
23 ~~summary of evidence received and relied upon, and the reasons~~
24 ~~for the findings. A party may at his or her own expense require~~
25 ~~that the hearing proceedings be recorded and transcribed.~~

26 ~~(c) A party aggrieved by the findings of the hearing officer may~~
27 ~~within 20 days apply for a writ of mandate to the superior court.~~
28 ~~Venue shall lie in the county in which is located the office of the~~
29 ~~director which issued the findings after the hearing.~~