

# Bill as Introduced

HB 171 - AS INTRODUCED

2013 SESSION

13-0060  
01/10

HOUSE BILL **171**

AN ACT relative to the civil penalty for failure to make payment of workers' compensation.

SPONSORS: Rep. J. Webb, Rock 6; Rep. Kappler, Rock 3; Rep. H. Richardson, Coos 4;  
Rep. Flanagan, Hills 26; Rep. Thompson, Rock 6; Rep. Ferrante, Rock 6;  
Rep. O'Connor, Rock 6

COMMITTEE: Labor, Industrial and Rehabilitative Services

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ANALYSIS

This bill requires the labor commissioner to assess a civil penalty on any insurance carrier or self-insurer who fails to make payment of workers' compensation. Current law allows the commissioner discretion in assessing such penalty.

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Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struckthrough.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                   relative to the civil penalty for failure to make payment of workers' compensation.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Workers' Compensation; Failure to Make Payment of Compensation. Amend the introductory  
2 paragraph of RSA 281-A:42, I to read as follows:

3           I. The commissioner [~~may~~] **shall** assess a civil penalty of up to \$2,500 on any insurance  
4 carrier or self-insurer who fails, without sufficient cause as determined by the commissioner, within  
5 21 days after notice of a claim has been received by the insurance carrier or self-insurer or 21 days  
6 from the date that benefits are due:

7           2 Effective Date. This act shall take effect January 1, 2014.

# Speakers



# Hearing Minutes

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

PUBLIC HEARING ON HB 171

**BILL TITLE:** relative to the civil penalty for failure to make payment of workers' compensation.

**DATE:** January 23, 2013

**LOB ROOM:** 307      **Time Public Hearing Called to Order:** 10:30 a.m.  
**Time Adjourned:** 11:07 a.m.

(please circle if present)

**Committee Members:** Reps. A. White, S. Kelly, Coulombe, C. Rice, Weed, J. Schmidt, DiSilvestro, Andrews, Cahill, Ley, Tanner, Daniels, Burchell, H. Richardson, Infantine, Pellegrino, Flanagan, Emerick, Sedensky and St. James.

**Bill Sponsors:** Rep. J. Webb, Rock 6; Rep. Kappler, Rock 3; Rep. H. Richardson, Coos 4; Rep. Flanagan, Hills 26; Rep. Thompson, Rock 6; Rep. Ferrante, Rock 6; Rep. O'Connor, Rock 6

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. James Webb** - Prime sponsor of the bill. Supports the bill. This bill is to change line word from "may" to "shall". Hoping the Commission will still have a leeway to make a decision. What is the bill trying to do? Basically if you ask for information and they don't have - wants to make sure the correct party is listed as to who may have not paid a claim in the 21 days.

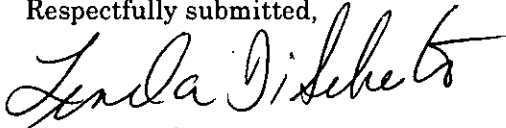
**Rep. Herb Richardson** - Co-sponsor of the bill. Supports the bill. Workers Comp. has 21 days to pay you - in recent times - they have not. This bill would encourage them to pay their comp to the injured. If they don't, then the Commissioner "shall" have decision making of a fine.

**Deb Stone, NH Insurance Department** - Asked to testify by Rep. Infantine. Would like information on carriers who are not complying with existing law to pay workers comp. Thought questions should be directed to the Department of Labor.

**Martin Jenkins, Department of Labor** - Workers comp system - highly neg. - obligations in all parties. When uninjured party needs to be paid quickly - 21 days is written. Basic assumption is carriers will pay in 21 days. Labor Board believes carriers will be responsible if they don't comply, the word being changed from "may" to "shall" is to help the Commissioner to determine if there has been a neglect by the carrier and if so, a fine will be imposed. Are there many screw up with carrier not paying? Has gone down in last couple of years, but a penalty is a deterrent. What are weeks collected fines used for? Civil penalties go to the amount to offset costs of bus and there the General Fund. Mr. Jenkins added: Requested HB 172 be ext'ed. Past 60 days if it should be passed.

**Rep. Webb** - This bill is to help assess the fines that have been paid. Over all questions are the carriers not paying their claims and if not are they being properly fined. Some are given wavers by the Labor Department if a carrier may say it was an oversight they didn't pay in 21 days. Could help co's to make better choice on a carrier based on the data kept by the Labor Department.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda A. DiSilvestro". The signature is written in black ink and is positioned above the printed name.

Linda A. DiSilvestro  
Clerk



HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

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**Bill Sponsors:** Rep. J. Webb, Rock 6; Rep. Kappler, Rock 3; Rep. H. Richardson, Coos 4; Rep. Flanagan, Hills 26; Rep. Thompson, Rock 6; Rep. Ferrante, Rock 6; Rep. O'Connor, Rock 6

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

HB 171 1/23 10:30

## Support

1. Rep James Webb - this bill is to change one word from "may" to "shall"

Hoping the Commission will still have a way to make a decision.

What is the Bill trying to do? Basically if u ask for info & they don't have - wants to make sure the correct party is listed as to who may have not paid a claim in the 21 days.

2. Rep Richardson - Support.

wks Comp has 21 days to pay you - in recent times - they have not - this bill would encourage them to pay their Comp to the insured. If they don't - then the Commissioner. "Shall" have decision making of a fine.

3. Deb Stone - asked to testify by Rep F. Fintine

would like info on carriers who are not complying with existing law to pay wks comp. Thought questions should be directed to the Dept of Labor

4. Martin Jenkins -

wks Comp sys - highly reg. - obligations on all parties - when an injured party needs to be paid quickly - 21 days is written. Basic assumption is carriers will pay in 21 days. Labor Bd believes carriers will be responsible - ~~but~~ if they don't <sup>comply</sup> ~~the~~ word being changed from "may" to "shall" is to help the Commissioner to determine if there has been a neglect by the carrier and if so - a fine will be imposed

Are there many screw-ups with carriers not paying -  
Has gone down in last couple of years - but a penalty is  
a deterrent.

What are the collected fines used for - Civil penalties  
go to the amt to offset costs of bus & then the Gen'l Fund.

Mr. Jenkins added:

Requested HB 179 be extended past 60 days - if it  
should be passed

1 Rep Webb - spoke again - this bill is to help assess the  
~~total~~ fines that have been paid.

Overall questions are the carriers not paying their  
claims and, if not are they being properly fined - some are  
given waivers by the Labor Dept - if a carrier may say  
It was an oversight they didn't pay in 30 days.

Could help CO's to make better choice on a carrier based  
on the data kept by the Labor Dept.

~~What are the expenses to cover the problem~~

# Testimony

**New Hampshire State Representative**

**L. Mike Kappler**

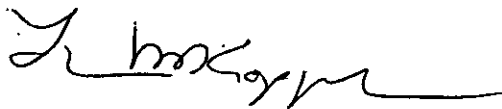
**HB-171**

**Committee Chair and members,**

**As HB-171 amends RSA 281, it takes the "should I" or "shouldn't I" out of the Commissioner's decision making, by simply saying "The Commissioner shall".**

**I strongly support, and ask you to vote, and to recommend to the full House to pass HB-171, voting Ought To Pass (OTP).**

**Thank you.**

A handwritten signature in black ink, appearing to read "L. Mike Kappler", written in a cursive style.

# Voting Sheets

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on HB 171

**BILL TITLE:** relative to the civil penalty for failure to make payment of workers' compensation.

**DATE:** February 5, 2013

**LOB ROOM:** 307

**Amendments:**

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Andrews

Seconded by Rep. Kelly

Vote: 16-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE: YES**

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Linda A. DiSilvestro, Clerk

HOUSE COMMITTEE ON LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

EXECUTIVE SESSION on HB 171

**BILL TITLE:** relative to the civil penalty for failure to make payment of workers' compensation.

**DATE:** 2/5/13

**LOB ROOM:** 307

**Amendments:**

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

**Motions:**  OTP,  OTP/A,  ITL,  Retained (Please circle one.)

Moved by Rep. *Andrews*

Seconded by Rep. *Kelly*

Vote: (Please attach record of roll call vote.)

**Motions:**  OTP,  OTP/A,  ITL,  Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:** 16-0

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. Linda A. DiSilvestro, Clerk





STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/10/2013 9:29:31 AM  
Roll Call Committee Registers  
Report

2013 SESSION

LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

Bill #: 0990 171 Title: Requiring the labor commissioner to maintain certain statistical information regarding workers compensation  
PH Date: 01 123 12013 Exec Session Date: 2 1 5 1 13  
Motion: OTP Amendment #: \_\_\_\_\_

MEMBER	YEAS	NAYS
White, Andrew A, Chairman	X	
Kelly, Sally H, V Chairman	Y	
Weed, Charles F	not here	
Rice, Chip L	Y	
Coulombe, Gary M	not here	
Andrews, Christopher R	Y	
Cahill, Michael D	Y	
DiSilvestro, Linda A, Clerk	Y	
Ley, Douglas A	Y	
Schmidt, Janice E	Y	
Tanner, Linda L	Y	
Daniels, Gary L,	Y	
Infantine, William J,	Y	
Richardson, Herbert D	Y	
Pellegrino, Tony J	Y	
Sedensky, John B,	not here	
Flanagan, Jack B	not here	
Burchell, Richard B	Y	
Emerick, J. Tracy	Y	
St.James, Kevin P	Y	
TOTAL VOTE:		

16-0

# Committee Report

**CONSENT CALENDAR**

**February 7, 2013**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on LABOR, INDUSTRIAL AND  
REHABILITATIVE SERVICES to which was referred  
HB171,**

**AN ACT relative to the civil penalty for failure to make  
payment of workers' compensation. Having considered  
the same, report the same with the recommendation  
that the bill OUGHT TO PASS.**

**Rep. Christopher R Andrews**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES</b>
Bill Number:	<b>HB171</b>
Title:	<b>relative to the civil penalty for failure to make payment of workers' compensation.</b>
Date:	<b>February 7, 2013</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS</b>

### STATEMENT OF INTENT

The committee voted unanimously to support this legislation which requires the commissioner of employment security to assess fines for insurance carriers or self-insurer who without cause fail to make workers compensation payments as required by law. Current statute provides the commissioner discretion to levy fines or not. The committee heard testimony that because the commissioner is not required to impose fines on those in violation there is no ability to gather data about the extent of the issue of non-payment. The commissioner retains the authority to fine from one cent to twenty five hundred dollars. The one word change to statute changes may to shall to support this endeavor.

Vote 16-0.

Rep. Christopher R Andrews  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES

**HB171**, relative to the civil penalty for failure to make payment of workers' compensation. **OUGHT TO PASS.**

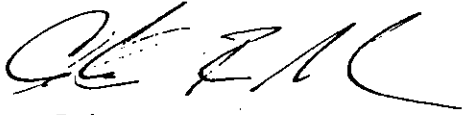
Rep. Christopher R Andrews for LABOR, INDUSTRIAL AND REHABILITATIVE SERVICES. The committee voted unanimously to support this legislation which requires the commissioner of employment security to assess fines for insurance carriers or self-insurer who without cause fail to make workers compensation payments as required by law. Current statute provides the commissioner discretion to levy fines or not. The committee heard testimony that because the commissioner is not required to impose fines on those in violation there is no ability to gather data about the extent of the issue of non-payment. The commissioner retains the authority to fine from one cent to twenty five hundred dollars. The one word change to statute changes may to shall to support this endeavor. **Vote 16-0.**


Original: House Clerk  
Cc: Committee Bill File

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HB 171

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Chris Andrews  
2/5/13

Approved:  


# COMMITTEE REPORT

COMMITTEE: Labor

BILL NUMBER: HB 171

TITLE: Relative to the civil penalty for failure to make payment of worker's Compensation

DATE: 2/5/2013 CONSENT CALENDAR: YES  NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
\_\_\_\_\_

## STATEMENT OF INTENT:

~~The Committee voted unanimously to pass this legislation. The bill simply changes the wording for assessing a penalty on <sup>any</sup> insurance carrier or self-insurer who ~~fails to~~ fails to make a payment of Compensation within 21 <sup>days</sup> of receipt of a claim. The bill changes the wording from may, to shall assess a civil penalty.~~

See Attached

COMMITTEE VOTE: 16-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Chris Andrews

For the Committee