

# 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.

.....

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

# Committee Minutes

**SENATE CALENDAR NOTICE  
COMMERCE**

Senator Andy Sanborn Chairman  
 Senator Jeb Bradley V Chairman  
 Senator Sam Cataldo  
 Senator Andrew Hosmer  
 Senator David Pierce

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: March 14, 2013**

**HEARINGS**

**Tuesday**

**3/19/2013**

COMMERCE

LOB 101

1:00 PM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

1:00 PM	HB171	relative to the civil penalty for failure to make payment of workers' compensation.
1:20 PM	HB172	requiring the labor commissioner to maintain certain statistical information regarding payment of workers' compensation.
1:40 PM	HB200	relative to an employer's burden of proof in unemployment compensation hearings.
2:00 PM	HB229-FN	relative to a financial examination supervisor.
2:20 PM	HB230	relative to administrative supervision of insurers.
2:40 PM	HB231	relative to reinsurance.

**Sponsors:**

**HB171**

Rep. James Webb  
 Rep. David Thompson

Rep. Lawrence Kappler  
 Rep. Beverly Ferrante

Rep. Herbert Richardson  
 Rep. John O'Connor

Rep. Jack Flanagan

**HB172**

Rep. James Webb  
 Rep. David Thompson

Rep. Lawrence Kappler  
 Rep. Beverly Ferrante

Rep. Herbert Richardson  
 Rep. John O'Connor

Rep. Jack Flanagan

**HB200**

Rep. Steven Smith

**HB229-FN**

Rep. Edward Butler

Rep. John Hunt

Rep. Donald Flanders

**HB230**

Rep. Edward Butler

Rep. John Hunt

Rep. Donald Flanders

**HB231**

Rep. Donna Schlachman

Rep. John Hunt

# Commerce Committee Hearing Report

Patrick Murphy, *Legislative Aide*

Hearing Report on House Bill 171 relative to the civil penalty for failure to make payment of workers' compensation.

**Hearing Date:** March 19, 2013

**Time Opened:** 1:02 p.m.

**Time Closed:** 1:28 p.m.

**Members of the Committee Present:**

Senator Sanborn, Senator Bradley, Senator Cataldo, Senator Hosmer, Senator Pierce

**Bill 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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**Sponsor(s):** 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

**Supporters of the bill:** Rep. J. Webb, Rock 6; Rep. O'Connor, Rock 6; Rep. Thompson, Rock 6; Benjamin King, NH Association for Justice

**Those in opposition to the bill:** Dave Juvet, Business and Industry Association; Peter McArdle, NH Association of Domestic Insurance Companies; Bob Sculley, NH Motor Transport Association

**Summary of testimony received in support:**

Rep. J. Webb, Rock 6

- This is an issue of transparency. The goal is to be able to see and account for who is being assessed the penalty. The Commissioner would still be able to decrease the amount of the penalty, this would simply require the Commissioner to assess a penalty at some level rather than waive it in some cases and not others. Currently there are no records kept that show how and why penalty assessments are made. If the Commissioner felt a penalty was unwarranted, they could assess the penalty for 1 penny.

Benjamin King, NH Association for Justice

- There is no good reason for a carrier to miss the 21 day guideline to accept or deny a claim. The employee is helpless in these situations and the carrier just gets a slap on the wrist. By making the penalty mandatory it will wake the carriers up to the fact that there are consequences for missing the deadline.
- In response to questions from the committee, the witness responded that for this penalty to be a true deterrent serial offenders should be assessed the maximum penalty.

**Summary of testimony received in opposition:**

Dave Juvet, Business and Industry Association

- This bill doesn't accomplish what the sponsors want it to do. This bill says that we have lost confidence in the Commissioner's judgment. This won't increase transparency at all.

Peter McArdle, NH Association of Domestic Insurance Companies

- This bill will not increase transparency. Currently the Labor Commissioner can take the carrier to superior court to recover money in a civil case or the Labor Commissioner can report a carrier to the Insurance Department who can hold a hearing and potentially revoke a carrier's license.

**Funding:** None

**Action:** Pending

# Speakers





# Committee Report

STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: April 3, 2013

THE COMMITTEE ON Commerce

to which was referred House Bill 171

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

Having considered the same, the committee recommends that the Bill:

**IS INEXPEDIENT TO LEGISLATE**

BY A VOTE OF:    5-0

AMENDMENT # {Type 4-digits here}s

Senator Jeb E. Bradley  
For the Committee

Patrick Murphy 271-8631

## Docket of HB171

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

*Official Docket of* **HB171:**

<b>Date</b>	<b>Body</b>	<b>Description</b>
1/3/2013	H	<b><u>Introduced</u></b> 1/3/2013 and Referred to Labor, Industrial and Rehabilitative Services; <b><u>HJ 12</u></b> , PG.185
1/14/2013	H	Public Hearing: 1/23/2013 10:30 AM LOB 307
1/23/2013	H	Executive Session: 2/5/2013 1:00 PM LOB 307
2/7/2013	H	Committee Report: Ought to Pass for Feb 13 (Vote 16-0; CC); <b><u>HC 13</u></b> , PG.209
2/13/2013	H	<b><u>Ought to Pass:</u></b> MA VV; <b><u>HJ 17</u></b> , PG.330
2/14/2013	S	Introduced and Referred to Commerce
3/14/2013	S	Hearing: 3/19/13, Room 101, LOB, 1:00 p.m.; <b><u>SC12</u></b>
4/8/2013	S	Committee Report: Inexpedient to Legislate, 4/18/13; <b><u>SC16</u></b>
4/18/2013	S	Inexpedient to Legislate, MA, VV === BILL KILLED ===;

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

HB 171 ORIGINAL REFERRAL \_\_\_\_\_ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

\_\_\_\_ - AMENDMENT # \_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_  
\_\_\_\_ - AMENDMENT # \_\_\_\_      \_\_\_\_ - AMENDMENT # \_\_\_\_

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED      \_\_\_\_ AS AMENDED BY THE HOUSE  
\_\_\_\_ FINAL VERSION      \_\_\_\_ AS AMENDED BY THE SENATE

- OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): \_\_\_\_\_

DATE DELIVERED TO SENATE CLERK 7-19-13

PJM  
By COMMITTEE AIDE