

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 69

An Act to amend and reenact §§ 65.2-805 and 65.2-806 of the Code of Virginia, relating to workers' compensation; failure to insure payment; penalty.

[H 1863]

Approved March 20, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 65.2-805 and 65.2-806 of the Code of Virginia are amended and reenacted as follows:

§ 65.2-805. Civil penalty for violation of §§ 65.2-800, 65.2-803.1, and 65.2-804.

A. If such employer fails to comply with the provisions of § 65.2-800 or 65.2-804, he shall be assessed a civil penalty of not less than \$500 nor more than \$5,000, and he shall be liable during continuance of such failure to any employee either for compensation under this title or at law in a suit instituted by the employee against such employer to recover damages for personal injury or death by accident, and in any such suit such employer shall not be permitted to defend upon any of the following grounds:

1. That the employee was negligent;
2. That the injury was caused by the negligence of a fellow employee; or
3. That the employee had assumed the risk of the injury.

B. Any person who fails to comply with the provisions of § 65.2-803.1 shall be assessed a civil penalty of not less than \$500 nor more than \$5,000 for each instance of noncompliance, in addition to any other penalties applicable under this title.

C. The civil ~~penalty~~ penalties herein provided may be assessed by the Commission in an open hearing with the right of review and appeal as in other cases. Upon a finding by the Commission of such failure to comply, and after ~~fifteen~~ 15 days' written notice thereof sent by certified mail to the employer, if such failure continues, the Commission may order the employer to cease and desist all business transactions and operations until found by the Commission to be in compliance with the provisions of this chapter.

€ D. Any civil penalty assessed pursuant to this section shall be paid into the Uninsured Employer's Fund established in Chapter 12 (§ 65.2-1200 et seq.) of this title.

§ 65.2-806. Criminal penalties.

In addition to the ~~fine~~ civil penalties assessed pursuant to § 65.2-805, any employer who knowingly and intentionally fails to comply with the provisions of § 65.2-800 or 65.2-804 ~~shall be~~ is guilty of a Class 2 misdemeanor.

Venue for the prosecution hereof when there is an injury shall lie in the county or city wherein the injury occurred.