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SENATE BILL NO. 704

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 10, 1998)

(Patron Prior to Substitute—Senator Stolle)

A BILL to amend and reenact §§ 60.2-114 and 60.2-623 of the Code of Virginia, relating to the release of employment information to private attorneys acting as agents of the Commonwealth; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 60.2-114 and 60.2-623 of the Code of Virginia are amended and reenacted as follows:

§ 60.2-114. Records and reports.

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 (i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish any agency or political subdivision of the Commonwealth such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions.

D. Each employing unit shall report to the Commission the initial employment of any person, as defined in § 60.2-212, within thirty-five days of such employment. Information to be provided shall include (i) the employee's name, address and social security number and (ii) the employer's name, address, and federal or Virginia Employment Commission identification number. This information may be provided by mailing a copy of the employee's W-4 forms, transmitting magnetic tape in a format prescribed by the Commission, or by any other means determined by the Commission to result in timely reporting. Notwithstanding any other provisions of law, the Commission shall transmit this information to the Department of Social Services pursuant to Title 63.1 within twenty-one days of its receipt by the Commission. The Commission shall have the authority to promulgate regulations to administer this provision, including any exemptions which are needed to reduce unnecessary or burdensome reporting. The Department of Social Services shall reimburse the Commission for administrative costs incurred pursuant to this section.

E. Any member or employee of the Commission and any member, employee or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be fined not less than \$20 nor more than \$200, or confined in jail for not longer than ninety days, or both guilty of a Class 2 misdemeanor.

§ 60.2-623. Procedure generally; confidentiality of information.

A. The manner in which disputed claims shall be presented, reports required from the claimant and from employers, the conduct of hearings and appeals before any deputy, appeal tribunal or the Commission, and transcripts prepared shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties. Such regulations need not conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a

60 disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further
61 appealed and a timely request for a hearing before the Commission has been made in accordance with
62 regulations prescribed by the Commission.

63 B. Information furnished the Commission under the provisions of this chapter shall not be published
64 or be open to public inspection, other than to public employees in the performance of their public
65 duties. Neither such information, nor any determination or decision rendered under the provisions of
66 §§ 60.2-619, 60.2-620 or § 60.2-622, shall be used in any judicial or administrative proceeding other
67 than one arising out of the provisions of this title; however, the Commission shall make its records
68 about a claimant available to the Workers' Compensation Commission if it requests such records. The
69 Commission may also, in its discretion, furnish copies of the transcript of hearings to any party.

70 C. Notwithstanding the provisions of subsection B, the Commission shall, on a reimbursable basis,
71 furnish wage and unemployment compensation information contained in its records to the Secretary of
72 Health and Human Services and Virginia's child support enforcement agency for their use as necessary
73 for the purposes of the National Directory of New Hires established under § 453(i) of the Social
74 Security Act.

75 *D. Notwithstanding the provisions of subsection B, the Commission shall, upon written request,*
76 *furnish any agency or political subdivision of the Commonwealth such information as it may require for*
77 *the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political*
78 *subdivisions. Such information shall not be published or used in any administrative or judicial*
79 *proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the*
80 *Commonwealth or its political subdivisions.*