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**HOUSE BILL NO. 1372**

Offered January 14, 2015

Prefiled December 7, 2014

*A BILL to amend and reenact § 65.2-817 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-1908.1, relating to workers' compensation insurance; use of experience rating; loss limitation for not-at-fault motor vehicle accidents.*

Patrons—Webert, Head and Ramadan

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-817 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-1908.1 as follows:**

**§ 38.2-1908.1. Standards for determining the deduction of a loss limitation for not-at-fault motor vehicle accidents.**

*A. The Commission shall adopt regulations that establish, for purposes of subsections B and C of § 65.2-817, standards for determining:*

- 1. When a motor vehicle accident is a not-at-fault motor vehicle accident;*
- 2. A loss limitation to be included in the calculation of workers' compensation insurance experience modifications when a motor vehicle accident is a not-at-fault motor vehicle accident; and*
- 3. The distribution, among workers' compensation classifications, of any loss remaining after deduction of the loss limitation established under subdivision 2.*

*B. As used in this section, "not-at-fault motor vehicle accident" means a motor vehicle accident (i) that has been reported to appropriate law enforcement as required by applicable law; (ii) that involves a collision between (a) a motor vehicle owned by the employer and operated by an employee of the employer and (b) a motor vehicle that is neither owned by the employer nor operated by an individual who is an employee of the employer; (iii) for which the nonemployee individual who operated the motor vehicle that collided with the employer's motor vehicle has admitted liability for the accident or is determined by the responding law-enforcement official, or a court of proper jurisdiction if the cause of the motor vehicle accident is established in a court proceeding, to have caused the accident through his negligence or intentional misconduct; and (iv) in which the motor vehicle operated by the nonemployee individual was at the time of the collision insured under a policy of motor vehicle insurance with limits adequate to cover claims for bodily injury to or death of any employee occurring in connection with the motor vehicle accident.*

**§ 65.2-817. Rates; cooperation between State Corporation Commission and Workers' Compensation Commission.**

*A. Authority is hereby conferred upon the State Corporation Commission to make such arrangements with the Workers' Compensation Commission as may be agreeable to the Workers' Compensation Commission, for collecting, compiling, preserving and publishing statistical and other data in connection with the work of regulating workers' compensation insurance rates and for the division of the expenses thereof, to the end that duplication of work and expenditures may be avoided. Whenever it deems proper, with the consent of the Workers' Compensation Commission, the State Corporation Commission may appoint members of the Workers' Compensation Commission, or its employees, as special agents of the State Corporation Commission to take testimony and make reports with reference to any matter involving questions of workers' compensation insurance rates.*

*B. In exercising its authority pursuant to subsection A, the State Corporation Commission shall ensure that the amount by which an employer's experience rating would otherwise be modified, if at all, as the result of a motor vehicle accident in which an employee is injured or killed shall be reduced in accordance with subsection C if:*

- 1. The employee is entitled to benefits under this title; and*
- 2. The accident was a not-at-fault motor vehicle accident, as defined in subsection B of § 38.2-1908.1.*

*C. Any modification of an employer's experience rating resulting from a not-at-fault motor vehicle accident shall reflect the deduction of a loss limitation, the amount of which shall be determined by regulations adopted by the State Corporation Commission under § 38.2-1908.1. All loss experience remaining after deduction of the loss limitation shall be distributed among all workers' compensation classifications in use in the Commonwealth as determined by the State Corporation Commission.*

INTRODUCED

HB1372