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SENATE BILL NO. 226

Offered January 12, 2022

Prefiled January 10, 2022

A *BILL to amend and reenact § 65.2-804 of the Code of Virginia, relating to workers' compensation; notice to employees.*

Patron—McPike

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 65.2-804 of the Code of Virginia is amended and reenacted as follows:****§ 65.2-804. Evidence of compliance with title; notices to employees.**

A. 1. Each employer subject to this title shall file with the Workers' Compensation Commission, in form prescribed by it, annually or as often as may be necessary, evidence of his compliance with the provisions of § 65.2-801 and all others relating thereto; however, if the employer secures his liability under this title pursuant to subdivision A 1 of § 65.2-801 then the insurance carrier shall make a filing on behalf of the employer, and such filing shall be made electronically in the form as prescribed and to the agent as designated by the Commission, within 30 days of the inception of the policy. Evidence of an employer's compliance with the provisions of subdivision A 1 of § 65.2-801 shall be deemed to satisfy such provisions if it includes the name and address of the insured, the insured's federal employer identification number, his policy number, dates of insurance coverage, the name and address of his insurer, and the insurer's identification number. Every employer who has complied with the foregoing provision and has subsequently cancelled his insurance or his membership in a licensed group self-insurance association shall immediately notify the Workers' Compensation Commission of such cancellation, the date thereof and the reasons therefor. Every insurance carrier or group self-insurance association shall in like manner notify the Workers' Compensation Commission immediately upon the cancellation of any policy issued by it or any membership agreement, whichever is applicable, under the provisions of this title, except that a carrier or group self-insurance association need not set forth its reasons for cancellation unless requested by the Workers' Compensation Commission.

2. *If an employer subject to this title, or an employer's insurer, denies a covered employee's request for workers' compensation benefits, the employer or the insurer, as applicable, shall include in its letter denying benefits a notice that the employee has a right to dispute the claim denial through the Virginia Workers' Compensation Commission. Such notice shall include the following text:*

EMPLOYEE RIGHT TO DISPUTE DENIAL OF WORKERS' COMPENSATION BENEFITS.

IF YOU DISAGREE WITH THIS DENIAL, YOU HAVE THE RIGHT TO DISPUTE THE DECISION BY FILING A REQUEST FOR A HEARING WITH THE VIRGINIA WORKERS' COMPENSATION COMMISSION. IT IS YOUR RESPONSIBILITY TO DISPUTE THE DECISION AS SOON AS PRACTICABLE. THE WORKERS' COMPENSATION COMMISSION IS A STATE AGENCY RESPONSIBLE FOR MAKING FINAL DECISIONS ON DISPUTED WORKERS' COMPENSATION CLAIMS. HOWEVER, SUCH CLAIM MAY BE LOST IF YOU DO NOT FILE IT WITHIN THE TIME LIMIT PROVIDED BY LAW, WHICH IS TYPICALLY TWO YEARS AFTER THE INJURY. YOU CAN DETERMINE THE APPLICABLE TIME LIMIT FOR YOUR CLAIM BY CONTACTING THE VIRGINIA WORKERS' COMPENSATION COMMISSION.

Such notice shall also include the address, telephone number, and website through which the employee may contact the Virginia Workers' Compensation Commission.

~~2.~~ 3. Every employer who cancels his insurance or his membership in a licensed group self-insurance association shall, prior to cancelling his insurance or his membership, give 30 days' written notice to his employees covered. Every employer who receives the notice required under subsection B of this section shall immediately forward a copy to his employees covered. Where the employer is a mine owner or operator, the notice or copy of notice required to be given by this subsection shall also be given to the Chief Mine Inspector. The provisions of this subsection shall not apply with respect to a cancellation incident to a change of insurance or membership where no lapse of coverage occurs.

B. No policy of insurance hereafter issued under the provisions of this title, nor any membership agreement in a group self-insurance association, shall be cancelled or nonrenewed by the insurer issuing such policy or by the group self-insurance association cancelling or nonrenewing such membership, except on 30 days' notice to the employer and the Workers' Compensation Commission, unless the employer has obtained other insurance and the Workers' Compensation Commission is notified of that fact by the insurer assuming the risk, or unless, in the event of cancellation, said cancellation is for

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59 nonpayment of premiums; then 10 days' notice shall be given the employer and the Workers'
60 Compensation Commission.
61 C. The Commission may designate an agent for receipt of any notices required to be given to it
62 pursuant to this section.