

SAIF workers' compensation insurance fraud bill – Relating to fraudulent misrepresentation by employers to reduce workers' compensation premiums.

Oregon's workers' comp system is predicated on a balanced and fair system, where both employers and workers follow the rules. However, while fraud is a very rare occurrence, there is an imbalance in the workers' compensation system. Workers can be criminally prosecuted for intentionally committing workers' compensation fraud. Employers who knowingly and fraudulently misrepresent the amount of payroll or worker hours, or knowingly and fraudulently misclassify employees' job descriptions, have not been criminally prosecuted for insurance fraud because of a lack of clear statute. Cases that rise to the level of fraud are very rare, but occasionally we see cases that reach \$100,000s in damages.

To ensure that bad actors can be held accountable, LC 64 creates a crime of fraudulent misrepresentation by employers who misrepresent their payroll (or type of work their employees perform) with the intent to decrease the employers' workers' comp insurance premium. (The payment of lower premiums gives an employer a competitive advantage as compared to other businesses that accurately report payroll and the type of work performed.)

However, LC 64 also *ensures the protection of employers who follow the rules*. Section 2(b) confirms that employers who are acting *in good faith* are not committing the crime of fraudulent misrepresentation if they make mistakes when reporting payroll or type of work performed by their employees—this is where the routine audit process comes into play where the insurer works with the employer to true up their insurance policy premium. We want to make sure bad actors can be held accountable, but we want to equally make sure that this bill does not interfere with the normal, day-to-day workings of employers obtaining workers' compensation coverage to ensure that their employees are covered by required by law.

Employers who intentionally cheat on workers' compensation costs by hiding legitimate payroll likely also don't properly report financial record to other entities who collect taxes, including social security. Employers who operate this way are also much more likely to suppress legitimate injury claims by refusing the opportunity to file with an insurance carrier or by alleging the injured worker is lying about being employed if they do file. This leaves injured workers without the same protections provided by employers who play by the rules.

About SAIF:

SAIF is Oregon's not-for-profit workers' compensation insurance company. For more than 100 years, we've been taking care of injured workers, helping people get back to work, and striving to make Oregon the safest and healthiest place to work. For more information, visit the [About SAIF](#) page on saif.com.

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