

North Carolina Workers' Compensation Update (2)

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Changes to Uninsured Penalties under NC Gen. Stat. § 97-94

On June 14, 2018, the North Carolina House of Representatives made significant changes to the uninsured penalty provisions of the Workers' Compensation Act found at NC Gen. Stat. § 97-94. The changes come into effect on July 1, 2018.

Under the old statute, the penalty for an employer who failed to carry workers' compensation coverage was fixed at a minimum of \$50.00 per day and a maximum of \$100.00 per day (calculated at \$1.00 per employee per day). After July 1, 2018, the penalty will be fixed at a minimum of \$20.00 per day and a maximum of \$100.00 per day. This effectively lowers the minimum daily penalty for employers with 49 or fewer employees.

An alternative penalty is now available for employers who have not previously been penalized for failure to carry workers' compensation coverage. When penalized for the first time, an employer can secure coverage for the uninsured period, and submit proof of coverage along with its payroll records for the penalty period. The Commission will then determine the cost of coverage on a per-employee basis, and multiply that cost by the average number of employees during the penalty period. This figure, plus ten percent, is the alternative penalty amount. The alternative penalty is meant to incentivize employers to purchase coverage by offering a much lower penalty in most cases.

The Industrial Commission still has the authority to waive penalties against an employer who pays all compensation due and secures coverage. Employers are still liable for workers' compensation benefits even during uninsured periods, and may still face criminal charges and civil penalties for failure to comply with coverage requirements.

For questions regarding these changes, or any workers' compensation issue, please contact one of MGC's North Carolina workers' compensation [attorneys](#).

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