

# STATE OF NEW YORK

8387

2025-2026 Regular Sessions

## IN SENATE

June 6, 2025

Introduced by Sen. RAMOS -- (at request of the Workers Compensation Board) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the workers' compensation law, in relation to authorizing certain penalties to be assessed against members of limited liability companies and partners of limited liability partnerships and partnerships

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 26-a of the workers' compensation law, as added by  
2 chapter 578 of the laws of 1959, subdivisions 1, 2, 6, and 7-a as  
3 amended by chapter 316 of the laws of 1991, paragraphs (a) and (f) of  
4 subdivision 2 as amended by chapter 139 of the laws of 2008, paragraph  
5 (b) of subdivision 2 as amended by chapter 6 of the laws of 2007, subdivi-  
6 sion 3 as amended by chapter 395 of the laws of 1964, the opening  
7 paragraph of subdivision 3 as amended by chapter 236 of the laws of  
8 2005, the closing paragraph of subdivision 3 as further amended by  
9 section 104 of part A of chapter 62 of the laws of 2011, subdivision 5  
10 as amended by chapter 419 of the laws of 1961, subdivision 6-a as added  
11 by chapter 717 of the laws of 2021, the opening paragraph and paragraph  
12 (a) of subdivision 6-a as amended by chapter 35 of the laws of 2022,  
13 subdivision 8 as amended by chapter 276 of the laws of 1962, subdivision  
14 12 as added by chapter 135 of the laws of 1969, subdivision 13 as added  
15 by chapter 323 of the laws of 1980, and subdivision 14 as added by chap-  
16 ter 858 of the laws of 1985, is amended to read as follows:

17 § 26-a. Procedure and payment of compensation in claims against unin-  
18 sured defaulting employers. 1. (a) Notwithstanding any other provision  
19 of this chapter, when a claim for compensation is filed by an employee,  
20 or in case of death by the employee's dependents, and the employer has  
21 failed to secure the payment of compensation in accordance with section  
22 fifty of this chapter, to make deposit of security in accordance with

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 section twenty-six of this [~~chapter~~] article and to make payment of  
2 compensation into the fund created under this section according to the  
3 terms of any award including, without limitation, awards made pursuant  
4 to subdivision five of section thirteen-g, subdivision two of section  
5 thirteen-f, subdivision five of section thirteen-k, subdivision five of  
6 section thirteen-l and subdivision six of section thirteen-m of this  
7 article, payment of the award shall be promptly made from the fund  
8 created under this section in accordance with the terms thereof and the  
9 provisions of subdivision three of this section. The employer shall be  
10 liable with the fund for payment of the award. Where the employer is a  
11 corporation, limited liability company, limited liability partnership or  
12 partnership, the president, secretary [~~and~~], treasurer, member and part-  
13 ner thereof shall also be personally, jointly and severally liable with  
14 the corporation, limited liability company, limited liability partner-  
15 ship or partnership for payment of the award. The employer shall pay the  
16 award into the fund, in accordance with the time limitations contained  
17 in section twenty-five of this article.

18 (b) No such award, however, for any service specified in subdivision  
19 five of section thirteen-a of this article requiring advance authori-  
20 zation of the employer in accordance with the provisions of such subdi-  
21 vision, shall be payable from the fund unless advance authorization  
22 therefor was secured from the representative of the fund or is deter-  
23 mined by the board to be necessary. Notwithstanding any other provision  
24 under this section, awards made pursuant to section fourteen-a of this  
25 article shall not be the liability of the fund and shall not be payable  
26 therefrom nor shall payment of the present value of benefits be required  
27 to be paid into the aggregate trust fund pursuant to section twenty-sev-  
28 en of this article in any case in which the uninsured employers' fund is  
29 liable.

30 2. Uninsured employers' fund. (a) There is hereby created a fund  
31 which shall be known as the "uninsured employers' fund" to provide for  
32 the payment of awards against uninsured employers in accordance with the  
33 provisions of this section and shall be available only for the purposes  
34 stated in this subdivision, and the assets thereof shall not at any time  
35 be appropriated or directed to any other use or purpose, except as set  
36 forth in section fifty-a of this chapter.

37 (b) For the purpose of establishing and maintaining this fund, the  
38 board, upon rendering a decision with respect to any claim for compen-  
39 sation under this chapter that the employer liable therefor has failed  
40 to secure the payment of compensation with respect thereto in accordance  
41 with section fifty of this chapter, shall impose an assessment in the  
42 sum of one thousand dollars for each ten day period of non-compliance or  
43 a sum not in excess of two times the amount of the cost of compensation  
44 for its payroll for the period of such failure against the employer and  
45 direct its payment into the fund in connection with each such claim  
46 wherein injury shall have occurred on or after the first of May, nine-  
47 teen hundred fifty-nine, or in death cases where death as the result of  
48 injury shall have occurred on or after said date.

49 (c) If the employer shall fail to pay these assessments into the fund  
50 within ten days after date of mailing of notice thereof to [~~him or her~~]  
51 the employer, such default shall constitute a default in payment of  
52 compensation due pursuant to the provisions of section twenty-six of  
53 this article and judgment therefor shall be entered in accordance there-  
54 with, all other provisions of said section to be deemed applicable with  
55 respect thereto, except to the extent that said provisions may be clear-  
56 ly inconsistent with the provisions of this section. All sums collected

1 from an uninsured employer with respect to any claim for compensation  
2 referred to in this section but not payable from the fund, except fines  
3 collected from such employer pursuant to section fifty-two of this chap-  
4 ter whether such collection is made prior or subsequent to entry of  
5 judgment against such employer, shall be deemed in payment of an appli-  
6 cable first in satisfaction of any compensation and benefits due from  
7 such employer with respect to such claim and security demand, if any, in  
8 connection therewith and only when such obligations are satisfied in  
9 full shall the balance of said sums collected, if any, be deemed payment  
10 in satisfaction of and applicable to the assessments above prescribed in  
11 this section.

12 (d) All sums recovered from uninsured employers on judgments entered  
13 for failure to pay assessments as hereinbefore provided and for failure  
14 to pay compensation and benefits which were paid from the fund herein  
15 created, shall upon such recovery be paid into said fund.

16 (e) All awards made on or after July first, nineteen hundred sixty-  
17 nine for every case of injury causing death for which there are no  
18 persons entitled to compensation, and where there are persons entitled  
19 to compensation but the total amount of such compensation is less than  
20 two or five thousand dollars as the case may be exclusive of funeral  
21 benefits, pursuant to the provisions of subdivision three of section  
22 twenty-five-a of this article shall be paid into the uninsured employ-  
23 ers' fund.

24 (f) As promptly as practicable after July first, nineteen hundred  
25 ninety-one and annually thereafter as soon as practicable after January  
26 first in each succeeding year, the chair shall ascertain the condition  
27 of the uninsured employers' fund. The chair shall transfer to the fund  
28 out of the moneys collected pursuant to subdivision two of section one  
29 hundred fifty-one of this chapter an amount which will raise the net  
30 cash assets of the fund to the level of either the amount spent by the  
31 fund in the prior year, or the amount estimated to be expended by the  
32 fund in the succeeding year, whichever is greater, except that such  
33 requirement shall not apply between August first, two thousand eight and  
34 August first, two thousand fifteen to the extent that section fifty-a of  
35 this chapter permits the fund to be at a different level.

36 3. The commissioner of taxation and finance shall be the custodian of  
37 the uninsured employers' fund and shall invest any surplus moneys there-  
38 of in securities which constitute legal investments for savings banks  
39 under the laws of this state and in interest bearing certificates of  
40 deposit of a bank or trust company located and authorized to do business  
41 in this state or of a national bank located in this state secured by a  
42 pledge of direct obligations of the United States or of the state of New  
43 York, or in accordance with the provisions of section ninety-eight-a of  
44 the state finance law, in an amount equal to the amount of such certif-  
45 icates of deposit, and may sell any of the securities or certificates of  
46 deposit in which such fund is invested, if necessary for the proper  
47 administration or in the best interest of such fund. Disbursements from  
48 such fund as provided by this section shall be paid by the commissioner  
49 of taxation and finance upon vouchers signed by the [chairman] chair.

50 The commissioner of taxation and finance, as custodian of such fund,  
51 as soon as practicable after August first, nineteen hundred sixty-two  
52 and annually thereafter, shall furnish to the [chairman] chair of the  
53 board a statement of the fund, setting forth the balance of moneys in  
54 the said fund as of the time of the preceding statement, the income of  
55 the fund, a summary of payments out of the fund on account of compen-  
56 sation ordered to be paid therefrom by the board, medical and other

1 expenses, and all other charges against the fund in the interim and  
2 setting forth the balance of the fund remaining to its credit as of the  
3 end of the period being reported. Such statement shall be open to public  
4 inspection in the office of the [~~chairman~~] chair, and a copy thereof  
5 shall be transmitted by the [~~chairman~~] chair to the superintendent of  
6 financial services. The superintendent of financial services may examine  
7 into the condition of such fund at any time on [~~his~~] their own initi-  
8 ative or on request of the [~~chairman~~] chair. [~~He~~] The superintendent of  
9 financial services shall verify the receipts and disbursements of the  
10 fund, and shall ascertain the liability of the fund upon all cases in  
11 which awards of compensation have been made and charged against said  
12 fund and shall render a report of such facts to the [~~chairman~~] chair.  
13 Such report shall also be open to public inspection in the office of the  
14 [~~chairman~~] chair.

15 4. Upon notice to the representative of the fund, the board, if in its  
16 discretion it deems the interests of the fund will be best served there-  
17 by, may compromise the amount for which judgment has been entered  
18 against an employer pursuant to this section and the judgment entered  
19 may be modified accordingly. Such compromise shall be effective without  
20 the necessity of obtaining the approval of any other state official  
21 thereto, but shall not reduce the amount of benefits payable to or on  
22 behalf of any claimant under this section.

23 5. The [~~chairman~~] chair of the [~~workmen's~~] workers' compensation board  
24 shall appoint an employee of the board who is an attorney at law duly  
25 admitted to practice in the state of New York to serve as the represen-  
26 tative of the fund created under this section and shall assign to assist  
27 [~~him~~] such attorney in the discharge of [~~his~~] their duties as such  
28 representative under the provisions of this section, such other employ-  
29 ees of the board as the [~~chairman~~] chair deems necessary for this  
30 purpose. Such representative may apply to the [~~chairman~~] chair for  
31 authority to hire such medical and other experts and to defray the  
32 expense thereof and of such witnesses as are necessary to a proper  
33 defense of the claim within an amount in the discretion of the [~~chair-~~  
34 ~~man~~] chair and, if authorized, such amount shall be a charge against  
35 said fund. The representative of the fund may appear for and represent  
36 the interest of the fund in any case in court involving the rights of  
37 the fund against another not in the same employ as the employee who  
38 received benefits under this chapter and whose injury or death was  
39 caused by the negligence or wrong of such other.

40 6. Whenever it appears, in a claim for benefits under this chapter,  
41 that the employer may have failed to secure the payment of compensation  
42 in accordance with section fifty of this chapter, the fund shall be  
43 given notice of all proceedings in the claim. In such event, the  
44 provisions of this chapter with respect to procedure, the right to be  
45 heard and the right to apply to the board for review of a referee's  
46 decision and to appeal to the courts shall be reserved to the claimant,  
47 to the uninsured employer, and to the fund. Upon the application of the  
48 representative of the fund for a modification or rescission or review of  
49 an award, the board may review any award, decision or order and, on such  
50 review, may affirm, reverse, or modify any decision or award as the law  
51 and the facts may require, or take such other action as may be in the  
52 interest of justice. An appeal to the appellate division of the supreme  
53 court, third department, or to the court of appeals shall not operate as  
54 a stay of the payments by the uninsured employer or by the fund of the  
55 compensation required by the terms of the award or of the payment of the  
56 doctor's bills found to be fair and reasonable. Where such award is

1 reduced or rescinded upon appeal, the uninsured employer or the fund,  
2 whichever made payment, shall be entitled to reimbursement in a sum  
3 equal to the compensation in dispute paid by such party to the respond-  
4 ent pending adjudication of the appeal, and, if the claim for workers'  
5 compensation is disallowed, to a sum equal to the amount of the doctor's  
6 bills paid by such party pending adjudication of the appeal. Such  
7 reimbursement shall be paid from administration expenses as provided in  
8 section one hundred fifty-one of this chapter upon vouchers approved by  
9 the chair. To the extent of any reimbursement to the fund, the uninsured  
10 employer shall be entitled to reimbursement from the fund for payments  
11 made into the fund in accordance with subdivision one of this section.

12 6-a. In the event that the board is unable to determine the identity  
13 of the responsible insurance carrier for the employer within thirty days  
14 of the filing of a new claim, the board shall:

15 (a) appoint the uninsured employers' fund as the responsible party  
16 until such time as the identity of the responsible insurance carrier for  
17 the employer is determined. Upon such appointment, the uninsured employ-  
18 ers' fund shall immediately commence payments and provide medical care  
19 in accordance with the provisions of this chapter;

20 (b) schedule a hearing to determine the identity of the responsible  
21 insurance carrier for the employer and to determine such claim for  
22 compensation in accordance with the provisions of subdivision one of  
23 this section; and

24 (c) provide notice of such claim and hearing to the employer by certi-  
25 fied mail, return receipt requested, with a direction that the employer  
26 provide proof of having insurance in effect as provided by section ten  
27 of this article.

28 7. All the rights, powers, and benefits of the employer under section  
29 twenty-nine of this [~~chapter~~] article shall become the rights, powers  
30 and benefits of the fund in any case in which the fund has paid or is  
31 paying compensation to an injured employee or [~~his~~] their dependents  
32 under this section. If the employer has also paid compensation to or on  
33 behalf of the injured employee or [~~his~~] their dependents in such case  
34 any recovery by the fund pursuant to subdivision one of section twenty-  
35 nine shall first be applied to repayment of any awards paid by the fund  
36 to or on behalf of the injured employee or [~~his~~] their dependents in  
37 such case, the balance then applied to any outstanding unsatisfied  
38 demand for security in said case and assessments imposed against the  
39 employer pursuant to the provisions of this section, the remainder, if  
40 any, to be returned to the employer. If the employer has also paid  
41 compensation to or on behalf of the injured employee or [~~his~~] their  
42 dependents in such case, that portion, if any, of a recovery by the fund  
43 pursuant to subdivision two of section twenty-nine which is in excess of  
44 the total amount of compensation awarded to or on behalf of such injured  
45 employee or [~~his~~] their dependents and the reasonable and necessary  
46 expenditures incurred in effecting such recovery shall be apportioned  
47 between the injured employee or [~~his~~] their dependents and the fund in  
48 the manner provided in said subdivision two. The balance of said recov-  
49 ery shall first be applied to reimburse the fund for its reasonable and  
50 necessary expenditures in effecting such recovery and the remainder  
51 shall be applied to repayment of any award paid by the fund to or on  
52 behalf of the injured employee or [~~his~~] their dependents in such case.  
53 If there still remains a balance it shall first be applied to the  
54 outstanding unsatisfied demand for security, if any, in said case and  
55 assessments, if any, imposed against the employer pursuant to the

1 provisions of this section; the remainder, if any, to be returned to the  
2 employer.

3 7-a. Notwithstanding any other provision of section twenty-nine of  
4 this article to the contrary, a compromise by the claimant of [~~his or~~  
5 ~~her~~] their cause of action as set forth in said section twenty-nine of  
6 this article, in an amount less than the sum paid to or on behalf of the  
7 claimant from the uninsured employers' fund, shall be made only with the  
8 written consent of the chair.

9 8. The provisions of this section with respect to the liability of the  
10 uninsured employers' fund to pay awards against uninsured defaulting  
11 employers shall apply only to claims wherein the injury shall occur on  
12 or after the first day of October, nineteen hundred sixty-two, or where-  
13 in death shall occur as the result of an injury sustained on or after  
14 the aforesaid first day of October.

15 9. The [~~chairman~~] chair may make reasonable regulations for the proc-  
16 essing and payment of compensation out of the uninsured employers' fund.

17 10. The liability of the [~~chairman~~] chair, the commissioner of tax-  
18 ation and finance, the fund and the state of New York with respect to  
19 payment of any compensation, benefits, expenses, fees or disbursements  
20 properly chargeable against the uninsured employers' fund shall be  
21 limited to the assets in said fund and they shall not otherwise in any  
22 way or manner be liable for the making of any such payment.

23 11. All assessments payable pursuant to the provisions of this section  
24 shall be liens against the assets of the employer liable therefor with-  
25 out limit of amount, subordinate, however, to claims for unpaid wages  
26 and prior recorded liens.

27 12. Whenever the term employer is used in this section it shall be  
28 deemed to include without limitation a contractor liable for the payment  
29 of compensation pursuant to section fifty-six of [~~the workmen's compen-~~  
30 ~~sation law~~] this chapter.

31 13. Notwithstanding any other provision of this chapter, in any case  
32 of injury or death to the president, secretary, treasurer or any other  
33 officer charged with the obligation of obtaining workers' compensation  
34 insurance, of a corporation, any awards of compensation or medical  
35 expenses payable to or on behalf of such officer or to [~~his~~] their  
36 surviving spouse, children and dependents as defined by section sixteen  
37 of this article made against the corporation as an uninsured employer  
38 solely because of the injury or death of such officer, shall in no event  
39 be the liability of the uninsured employers' fund and shall not be paya-  
40 ble therefrom.

41 14. Notwithstanding any other provision of this chapter, in any case  
42 of injury or death to a self-employed person or to a partner of a part-  
43 nership as defined in section ten of the partnership law, any awards of  
44 compensation or medical expenses payable to or on behalf of such self-  
45 employed person or partner of a partnership or to [~~his~~] their surviving  
46 spouse, children and dependents as defined by section sixteen of this  
47 article made against the self-employed person or partnership as an unin-  
48 sured employer solely because of the injury or death of such self-em-  
49 ployed person or partner, shall in no event be the liability of the  
50 uninsured employers' fund and shall not be payable therefrom.

51 15. Notwithstanding any other provision of this chapter, in any case  
52 of injury or death to a self-employed person or to a member of a limited  
53 liability company as defined in section one hundred two of the limited  
54 liability company law, any awards of compensation or medical expenses  
55 payable to or on behalf of such self-employed person or member of a  
56 limited liability company or to their surviving spouse, children and

1 dependents as defined by section sixteen of this article made against  
2 the self-employed person or limited liability company as an uninsured  
3 employer solely because of the injury or death of such self-employed  
4 person or member, shall in no event be the liability of the uninsured  
5 employers' fund and shall not be payable therefrom.

6 § 2. Section 52 of the workers' compensation law, as amended by chap-  
7 ter 6 of the laws of 2007, subdivision 5 as amended by section 19 of  
8 part GG of chapter 57 of the laws of 2013, is amended to read as  
9 follows:

10 § 52. Effect of failure to secure compensation. 1. (a) Failure to  
11 secure the payment of compensation for five or less employees within a  
12 twelve month period shall constitute a misdemeanor, and is punishable by  
13 a fine of not less than one thousand nor more than five thousand  
14 dollars. Failure to secure the payment of compensation for more than  
15 five employees within a twelve month period shall constitute a class E  
16 felony, and is punishable by a fine of not less than five thousand  
17 dollars nor more than fifty thousand dollars in addition to any other  
18 penalties otherwise provided by law. It shall be an affirmative defense  
19 to any criminal prosecution under this section that the employer took  
20 reasonable steps to secure compensation.

21 (b) Where any person has previously been convicted of a failure to  
22 secure the payment of compensation within the preceding five years, upon  
23 conviction for a subsequent violation such person shall be guilty of a  
24 class D felony, and fined not less than ten thousand nor more than fifty  
25 thousand dollars in addition to any other penalties including fines  
26 otherwise provided by law.

27 (c) Where the employer is a corporation, limited liability company,  
28 limited liability partnership or partnership, the president, secretary  
29 [~~and~~], treasurer, members and partners thereof shall be liable for fail-  
30 ure to secure the payment of compensation under this section. It shall  
31 be an affirmative defense to any action against any officer of a corpo-  
32 ration, member of a limited liability company or partners of a limited  
33 liability partnership or partnership under this section that the  
34 officer, member or partner took reasonable steps to ensure that the  
35 corporation, limited liability company, limited liability partnership or  
36 partnership secured compensation, that proper internal procedures were  
37 in effect to do so, and that proper internal controls existed to monitor  
38 compliance with said procedures.

39 (d) If at any time an employer intentionally and materially under-  
40 states or conceals payroll, or intentionally and materially misrepre-  
41 sents or conceals employee duties so as to avoid proper classification  
42 for calculation of premium paid to secure compensation, or intentionally  
43 and materially misrepresents or conceals information pertinent to the  
44 calculation of premium paid to secure compensation, such employer shall  
45 be deemed to have failed to secure compensation and shall be subject to  
46 the sanctions applicable to this section.

47 (e) A stop-work order issued because an employer is deemed to have  
48 failed to secure compensation under section one hundred forty-one-a of  
49 this chapter shall have no effect upon an employer's or carrier's duty  
50 to provide benefits under this chapter or upon any of the employer's or  
51 carrier's rights and defenses.

52 2. All fines imposed under this chapter, except as herein otherwise  
53 provided, shall be paid directly and immediately by the officer, member  
54 or partner collecting the same to the [~~chairman~~] chair, and shall be  
55 paid by [~~him~~] them into the uninsured employers' fund created under  
56 section twenty-six-a of this chapter, provided, however, that all such

1 fines collected by justices of towns and villages shall be paid to the  
2 state comptroller in accordance with the provisions of section twenty-  
3 seven of the town law and section 4-410 of the village law respectively.

4 3. In any prosecution hereunder the failure of the employer to file  
5 with the [~~chairman~~] chair, within ten days after demand, a statement  
6 subscribed by the employer and affirmed by [~~him~~] them as true under the  
7 penalties of perjury showing specifically (a) the name of the stock  
8 company, mutual corporation or reciprocal insurer in which such employer  
9 is insured and the number and the date of issuance and term of such  
10 policy of insurance, or (b) that the said employer is insured with the  
11 state fund in which case [~~he~~] they shall give the number of such policy  
12 of insurance, the date of issuance and term thereof, or (c) that the  
13 said employer has been authorized to do business as a self-insurer  
14 pursuant to section fifty of this article, giving the date of said  
15 authorization, or (d) a legal reason, if any, why said employer is not  
16 required to secure compensation, shall constitute prima facie evidence  
17 that the employer has failed to secure compensation as herein required.  
18 The statement to be filed herein shall be subscribed by the employer or  
19 if the employer is a corporation, limited liability company, limited  
20 liability partnership or partnership by one of the officers, members or  
21 partners herein named in which [~~he~~] they shall state that [~~he has~~] they  
22 have read such statement subscribed by [~~him~~] them and knows the contents  
23 thereof and that same is true of [~~his~~] their own knowledge.

24 4. If, however, there has been an accident and the board shall have  
25 made an award against the employer as a non-insured employer, the making  
26 of such award, except in a case where the employer had secured compen-  
27 sation insurance which was in effect at the time of the accident but the  
28 carrier later became insolvent, shall constitute prima facie evidence of  
29 an employment by the employer of an employee in an occupation in which  
30 the said employer was required to carry compensation and of the failure  
31 of the employer to secure the payment of workers' compensation on the  
32 date of the accident involved in said award. A certified copy of such  
33 award shall be received as competent evidence of the making thereof in  
34 any criminal prosecution hereunder.

35 5. The chair, upon finding that an employer has failed for a period of  
36 not less than ten consecutive days to make the provision for payment of  
37 compensation required by section fifty of this article, may impose upon  
38 such employer, in addition to all other penalties, fines or assessments  
39 provided for in this chapter, a penalty of up to two thousand dollars  
40 for each ten day period of non-compliance or a sum not in excess of two  
41 times the cost of compensation for its payroll for the period of such  
42 failure, which sum shall be paid into the uninsured employers' fund  
43 created under section twenty-six-a of this chapter. When an employer  
44 fails to provide business records sufficient to enable the chair to  
45 determine the employer's payroll for the period requested for the calcu-  
46 lation of the penalty provided in this section, the imputed weekly  
47 payroll for each employee, corporate officer, sole proprietor, or part-  
48 ner shall be the New York state average weekly wage, multiplied by 1.5.  
49 Where the employer is a corporation, limited liability company, limited  
50 liability partnership or partnership, the president, secretary [~~and~~],  
51 treasurer, member and partner thereof shall be liable for the penalty.  
52 If the employer shall within thirty days after notice of the imposition  
53 of a penalty by the chair pursuant to this subdivision make an applica-  
54 tion in affidavit form for a redetermination review of such penalty the  
55 chair shall make a decision in writing on the issues raised on such  
56 application.

1 § 3. Subdivision 3 of section 131 of the workers' compensation law, as  
2 amended by chapter 6 of the laws of 2007, is amended to read as follows:

3 (3) The chair, upon finding that an employer has failed to keep true  
4 and accurate records as required by this section, may impose upon such  
5 employer, in addition to all other penalties, fines or assessments  
6 provided for in this chapter, one thousand dollars for each ten day  
7 period of non-compliance or a sum not in excess of two times the cost of  
8 compensation for its payroll for the period of such violation, which sum  
9 shall be paid into the uninsured employers' fund created under section  
10 twenty-six-a of this chapter. When an employer fails to provide business  
11 records sufficient to enable the chair to determine the employer's  
12 payroll for the period requested for the calculation of the penalty  
13 provided in this section, the imputed weekly payroll for each employee,  
14 corporate officer, sole proprietor, member, or partner shall be the New  
15 York state average weekly wage, multiplied by 1.5. Where the employer is  
16 a corporation, limited liability company, limited liability partnership  
17 or partnership, the corporation, limited liability company, limited  
18 liability partnership or partnership and any of the following shall be  
19 liable for the penalty provided in this subdivision: the president,  
20 secretary [and], treasurer, members and partners, respectively. If the  
21 employer shall within thirty days after notice of the imposition of a  
22 penalty by the chair pursuant to this subdivision make an application in  
23 affidavit form for a redetermination review of such penalty, the chair  
24 shall make a decision in writing on the issues raised on such applica-  
25 tion.

26 § 4. Subdivision 1 of section 220 of the workers' compensation law, as  
27 amended by section 18 of part SS of chapter 54 of the laws of 2016, is  
28 amended to read as follows:

29 1. Any employer who fails to make provision for payment of disability  
30 or family leave benefits as required by section two hundred eleven of  
31 this article within ten days following the date on which such employer  
32 becomes a covered employer as defined in section two hundred two of this  
33 article shall be guilty of a misdemeanor and upon conviction be punisha-  
34 ble by a fine of not less than one hundred nor more than five hundred  
35 dollars or imprisonment for not more than one year or both, except that  
36 where any person has previously been convicted of a failure to make  
37 provisions for payment of disability or family leave benefits within the  
38 preceding five years, upon conviction for a second violation such person  
39 shall be fined not less than two hundred fifty nor more than one thou-  
40 sand two hundred fifty dollars in addition to any other penalties  
41 including fines otherwise provided by law, and upon conviction for a  
42 third or subsequent violation such person may be fined up to two thou-  
43 sand five hundred dollars in addition to any other penalties including  
44 fines otherwise provided by law. Where the employer is a corporation,  
45 limited liability company, limited liability partnership or partnership,  
46 the president, secretary, treasurer, member, partner, or officers exer-  
47 cising corresponding functions, shall each be liable under this section.

48 § 5. This act shall take effect immediately.