

## CHAPTER 830

## H.B. No. 1021

## AN ACT

relating to the provision of safety and accident prevention services at job sites.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 5.76-1, Insurance Code, is amended to read as follows:

Art. 5.76-1. ACCIDENT PREVENTION SERVICES. (a) Any insurer desiring to write *workers'* [~~workmen's~~] compensation insurance in Texas shall maintain or provide accident prevention facilities as a prerequisite for a license to write such insurance. Such facilities shall be adequate to furnish accident prevention services required by the nature of its policyholder's operations and shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene and industrial health services, to implement the program of accident prevention services. Each field safety representative shall be either a college graduate who shall have a bachelor's degree in science or engineering, a registered professional engineer, a certified safety professional, a certified industrial hygienist, an individual with ten (10) years experience in occupational safety and health, or an individual who shall have completed a course of training in accident prevention services approved by the State Board of Insurance.

(b) The insurer shall render accident prevention services to its policyholders reasonably commensurate with the risks and exposures and experience of the subscriber's business. *Notice that services are available to the policyholder from the insurer must appear in no less than 10-point bold type on the front of each workers' compensation insurance policy delivered or issued for delivery in the state.* To provide such facilities, the insurer may employ qualified personnel, retain qualified independent contractors, contract with the policyholder to provide qualified accident prevention personnel and services, or use a combination of the methods enumerated in this subsection. Such personnel shall have the qualification required for field safety representatives as provided in Subsection (a).

(c) *At least once each year each insurer writing workers' compensation insurance in Texas must submit to the State Board of Insurance detailed information on the type of accident prevention facilities offered to that insurer's policyholders. The information must include:*

- (1) *the amount of money spent by the insurer on accident prevention services;*
- (2) *the number of field safety representatives employed by the insurer;*
- (3) *the number of site inspections performed;*
- (4) *any accident prevention services for which the insurer contracts; and*
- (5) *any additional information required by the Board.*

(d) If the Commissioner of Insurance shall determine that reasonable accident prevention services are not being maintained or provided by the insurer or are not being used by the insurer in a reasonable manner to prevent injury to employees of its policyholders, the fact shall be reported to the State Board of Insurance, and the Board shall order a hearing to determine if the insurer is not in compliance with this Article. If it is determined that the insurer is not in compliance, its license to write *workers'* [~~workmen's~~] compensation insurance in Texas shall be revoked.

(e) [(4)] The State Board of Insurance may promulgate reasonable rules and regulations for the enforcement of this Article after holding a public hearing on the proposed rules and regulations.

(f) *The Board shall employ the personnel necessary to enforce this Article and shall employ at least five (5) safety inspectors to perform inspections at the job site and at the insurance company to determine the adequacy of the accident prevention services provided by the insurer. The safety inspectors must have the qualifications required for field safety representatives required by Subsection (a) of this Article.*

(g) *An Accident Prevention Advisory Committee is created to assist the Board in developing rules to carry out this Article. The committee is composed of employer, employee, and insurance industry representatives and safety professionals appointed by the Board annually.*

(h) *The administration of this Article is an expense of regulating workers' compensation insurance under Article 5.68, Insurance Code.*

SECTION 2. Chapter 5, Insurance Code, is amended by adding Article 5.55A to read as follows:

**Art. 5.55A. REDUCTION IN CERTAIN PREMIUMS; LABOR-MANAGEMENT SAFETY COMMITTEES.** (a) *In setting premium rates for workers' compensation insurance, the State Board of Insurance shall approve a premium discount plan that will entitle a policyholder to a premium reduction if the policyholder demonstrates that it has not experienced an employee accident during the past four years but excluding the most current policy year and that it complies with:*

(1) *an accident prevention program recommended by the policyholder's insurer under Article 5.76-1 of this code, or a similar program recommended by the division of occupational safety of the Texas Department of Health;*

(2) *the employee notice requirements of the Hazard Communication Act (Article 5182b, Revised Statutes), if applicable;*

(3) *the recommendations of a labor-management safety committee created and approved in accordance with this article; and*

(4) *recommendations for completion of educational courses on accident prevention that are approved by the board and are offered by an institution of higher education, a community college, an employer association, or other group.*

(b) *To be eligible for a premium reduction under Subsection (a) of this article, a policyholder must apply in the manner prescribed by the board and qualify under this article and rules of the board.*

(c) *The board shall create a plan to approve labor-management safety committees established to promote occupational or industrial safety within an individual employer's work force. A committee must be composed of representatives of the employer and employees and shall recommend actions that can be taken by the employer or employees to reduce workplace accidents.*

(d) *The board may adopt rules as necessary to administer this article and to provide criteria for approval of labor-management safety committees and qualification for premium reductions under this article.*

SECTION 3. (a) This Act takes effect September 1, 1987.

(b) Section 1 of this Act applies to all policies for workers' compensation insurance delivered, issued for delivery, or renewed on or after January 1, 1988. Policies delivered, issued for delivery, or renewed before January 1, 1988, are subject to the law as it existed before being amended by this Act, and that law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 9, 1987, by the following vote: Yeas 107, Nays 19, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1021 on May 20, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 18, 1987, by a viva-voce vote.

Approved June 19, 1987.

Effective Sept. 1, 1987.