



OLR RESEARCH REPORT

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RECENT CHANGES IN WORKERS' COMPENSATION LAW

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You asked for a summary of changes in workers' compensation law over the last two years.

SUMMARY

During the last two legislative sessions there were no major changes to Connecticut workers' compensation law, including worker eligibility or benefits. Nor were there any court rulings that changed the law. The legislature did make several relatively minor changes to provisions in the law regarding penalties on late payments, intentional employee misclassification intended to avoid paying workers' compensation insurance, and liens related to lawsuits intended to reimburse workers' compensation costs.

Under state workers' compensation law an employee who is injured on the job while performing a job-related activity or becomes ill due to work-related reasons is covered by workers' compensation insurance. This means his or her medical treatment related to that injury or illness will be covered by the employer's workers' compensation insurance at no cost to the employee and the employee will receive wage replacement benefits that equal 75% of the employee's after-tax regular wages during the time he or she is out of work recovering. The law also bars the employee from bringing a civil lawsuit against the employer over the same injury or illness. By law and with few exceptions, employers must provide workers' compensation insurance for their employees (CGS Chapter 568).

2010 CHANGES

PA 10-11 — AN ACT CONCERNING INTEREST PENALTIES ON LATE PAYMENT OF ASSESSMENTS TO THE SECOND INJURY FUND

This law specifies that the penalty for overdue Second Injury Fund (SIF) assessments from employers or insurers is 15% of the assessment or \$50, whichever is greater. Under prior law, it was unclear when an employer or insurer paid 15% or the \$50 minimum. The fund, administered by the state treasurer, provides workers' compensation coverage to workers whose employers failed to provide it. Employers, and insurers on behalf of employers, pay an annual assessment into the fund.

EFFECTIVE DATE: Upon passage

PA 10-12 — AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE JOINT ENFORCEMENT COMMISSION ON EMPLOYEE MISCLASSIFICATION

By law, any employer who misrepresents either the number of its employees or casts them as independent contractors to defraud or deceive an insurance company to pay lower workers' compensation insurance is (1) guilty of a class D felony, (2) subject to a stop work order, and (3) liable to the Labor Department for a \$300 civil penalty. This act applies the same penalty to an employer who defrauds or deceives the state in the same way to evade making required workers' compensation related assessments. The act also increases the civil penalty for this violation by specifying that each day of the violation constitutes a separate offense.

The act specifies that any employer who is fully insured for workers' compensation and fails to pay the required state assessments for (1) administration of the Workers' Compensation Commission and (2) administration and funding of SIF, is guilty of a class D felony and subject to a stop work order. By law, a self-insured employer who fails to make the same assessments is already subject to these penalties.

EFFECTIVE DATE: October 1, 2010

PA 10-37 — AN ACT CONCERNING FIREFIGHTERS, POLICE OFFICERS AND WORKERS' COMPENSATION CLAIMS PERTAINING TO CERTAIN DISEASES

Under this act, a paid municipal or volunteer firefighter, municipal police officer, constable, or volunteer ambulance service member is eligible for workers' compensation benefits for diseases, including the following, if they arise out of and are in the course of employment:

1. hepatitis,
2. meningococcal meningitis,
3. tuberculosis,
4. Kahler's Disease (multiple myeloma),
5. non-Hodgkin's lymphoma,
6. prostate cancer, or
7. testicular cancer.

As with all workers' compensation claims, the disease must result in death or temporary or permanent total or partial disability in order to be eligible for benefits (i.e., it must cause at least some loss of work time). Since workers' compensation law already covers any disabling injury or illness that arises out of and in the course of employment, it is unlikely that this act has any legal effect.

EFFECTIVE DATE: October 1, 2010

2011 CHANGES

PA 11-205 — AN ACT CONCERNING THE RESOLUTION OF LIENS IN WORKERS' COMPENSATION CASES

This act reduces an employer's claim for reimbursement of workers' compensation benefits paid to an employee when the employee sues someone who is liable for the injury and the employer does not join the suit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) the SIF administrator.

By law, the employee or employer or SIF administrator paying benefits can bring such a lawsuit. The party bringing the suit must immediately notify the others in writing and the others can join the suit. Under prior law, if the others did not join the suit within 30 days, their right of action against the party in question abates (i.e., is suspended). The act provides that the right of action does not abate if the employer, insurer, or administrator fails to join the lawsuit but gives written notice of a lien. By law, an employer, its insurance carrier, or the Second Injury Fund paying benefits to an injured employee has a lien on any judgment or settlement the employee receives if they provide notice of the lien before judgment or settlement.

By law, an injured employee eligible for workers' compensation benefits can sue someone who is liable for damages for the injury, except for an employer who complies with the workers' compensation law or another employee. An employer who has paid or is obligated to pay workers' compensation benefits to the employee can also sue or join an employee's lawsuit in order to be reimbursed for benefits paid. (For example, the employer of a truck driver injured in an accident caused by another driver can join the truck driver's lawsuit against the other driver and that driver's insurance company.)

By law, if the employer and employee are both plaintiffs and recover damages, these are apportioned so that the employer's claim takes precedence, after deductions for reasonable and necessary expenses, including attorneys' fees incurred by the employee. Under the act, if the employee brings the action, the employer's claim is reduced by one-third of the amount to be reimbursed to the employer unless the parties agree otherwise. The reduction amount is solely for the employee's benefit. But the reduction does not apply if reimbursement is to the (1) state or a political subdivision, including a local public agency, as the employer or (2) SIF administrator.

EFFECTIVE DATE: July 1, 2011

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