



OLR BACKGROUNDER: WORKERS' COMPENSATION LAWS ENACTED SINCE 2004

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This report provides brief summaries of workers' compensation (WC) laws enacted by the General Assembly from 2004 through 2013. It does not include acts whose effects were limited to the Second Injury Fund, state employees, or state budgetary matters.

WORKERS' COMPENSATION LAWS, 2004-2013

PA 04-47: An Act Concerning the Time Period for Certain Workers' Compensation Payments

Among other things, this act extends, from 10 to 20 days, the maximum time employers have to make WC payments to injured employees under a (1) workers' compensation commissioner's award or (2) voluntary agreement on compensation between an employer and injured employee.

PA 04-214: An Act Concerning Lump Sum Payments under the Workers' Compensation Act and Disqualifications and Offsets under the Unemployment Compensation Act

Among other things, this act authorizes WC lump sum settlements to be prorated over an insured employee's life expectancy if the parties agree and the workers' compensation commissioner approves. Prior law permitted lump-sum settlements, but did not address prorating.

PA 05-208: An Act Concerning Offsets against Disability Retirement Benefits for State Employees and Stress-Related Workers' Compensation Benefits for Police Officers

Among other things, this act extends WC coverage for mental or emotional impairment to a police officer who uses deadly force or is the target of the attempted use of deadly force while in the line of duty. The officer must reasonably

believe he was at risk of physical injury or death. The act limits the WC benefits in these instances to treatment from a practicing psychologist or psychiatrist on an approved list established by the Workers' Compensation Commission chairperson.

PA 06-84: An Act Concerning Social Security Offsets Under the Workers' Compensation Act

This act eliminates the requirement that WC wage replacement benefits be reduced by an amount equal to the Social Security retirement benefits to which the injured worker is entitled. Under prior law, any person receiving Social Security retirement benefits and WC total disability payments for an injury that took place on or after July 1, 1993, received the WC payments only if they exceeded his other Social Security benefits, and he or she received only the amount of compensation in excess of the Social Security benefit. Under the act, the injured worker can receive both Social Security and WC benefits, with no reduction, for any compensable injury that occurs on or after May 30, 2006. (Workers injured between July 1, 1993 and May 30, 2006 remain subject to the offset.)

PA 07-29: An Act Concerning the Interim Appointment of Workers' Compensation Commissioners

By law, when the General Assembly is not in session, the governor must submit an appointment to fill a workers' compensation commissioner vacancy to the Judiciary Committee for its approval. This act increases, from 10 to 45 days, the time the committee has to hold a meeting to vote on such a nomination. It also allows the committee to extend this period by 15 days if it cannot complete its investigation and act within the 45-day period. By law, the committee's failure to act on the appointee is deemed approval. The act prohibits the governor from swearing in an appointee until the committee approves the appointee.

PA 07-31: An Act Concerning the Workers' Compensation Medical Practitioners' Fee Schedule and Time for Filing a Workers' Compensation Appeal

This act requires the Workers' Compensation Commission chairman to develop, implement, and annually update a new medical practitioners' fee schedule using values from the Medicare resource-based relative value scale (RBRVS). The fee schedule is used as a basis for physician and other practitioner fees for services provided under the Workers' Compensation Act. The chairman must also implement coding guidelines that conform to the federal Centers for Medicare and Medicaid Services' Correct Coding Initiative. The act authorizes the chairman to make necessary adjustments to the fee schedule for services with no established Medicare RBRVS.

The act also expands the list of people who can receive fees for service to include persons other than approved physicians, surgeons, podiatrists, optometrists, and dentists. (In practice, other medical professionals also received fees.)

The act also delays the start of the 20-day deadline to file an appeal of a WC award or order in situations when a ruling is pending on a subsequently filed motion. Under the act, the 20-day period to file an appeal begins when a compensation commissioner rules on the motion. Under prior law, the 20-day period began when a commissioner issued an award or order, regardless of any subsequent motions.

PA 07-80: An Act Concerning Notification to Injured Employees of the Discontinuation or Reduction of Workers' Compensation Benefits

This act extends, from 10 to 15 days, the period during which an employee can request a hearing after receiving a WC benefit reduction or discontinuation notice. It also requires that certain additional information be included in the form notifying an employee of the pending reduction or discontinuation. It increases the maximum penalty, from \$500 to \$1,000, for an employer's or insurer's undue delay of a compensation payment due to the party's fault or neglect. It permits the compensation commissioner hearing the claim to assess the penalty for each delay.

PA 07-89: An Act Concerning Penalties for Concealing Employment or Other Information Related to Workers' Compensation Premiums

This act authorizes the labor commissioner to issue a stop-work order to an employer who:

1. fails to obtain insurance or provide satisfactory proof of self-insurance for the employer's WC liability or
2. intends to injure, defraud, or deceive the employer's WC insurer by knowingly (a) misrepresenting an employee as an independent contractor (and thus not required to be covered by WC insurance) or (b) providing false, incomplete, or misleading information to the insurance company on the number of its employees in order to pay a lower premium.

The act includes procedures for issuing and terminating stop-work orders, imposes penalties for violating stop-work orders, and requires the labor commissioner to adopt regulations to implement the act's stop-work order provisions.

PA 08-3: An Act Requiring the Workers' Compensation Commission to Provide Injured Employees the Forms Necessary for Filing a Claim

This act requires the Workers' Compensation Commission to provide an injured employee with a WC claim form within five business days after it receives a first report of injury for that employee. The form can be provided in person or sent by mail to the employee's current address on file with the employer.

PA 08-61: An Act Concerning Workers' Compensation Coverage for Firefighters and Police Officers

This act establishes a rebuttable presumption that a cardiac emergency suffered on duty by municipal firefighters, police, and constables after July 1, 2009 is job-related (and thus eligible for WC benefits). As a "rebuttable" presumption, the presumption that the cardiac emergency was job-related can be overcome if a preponderance of evidence shows otherwise. In addition, (1) the cardiac emergency must result in lost work time due to total or partial incapacity or death and (2) the act applies only to those officials hired after July 1, 1996.

PA 08-156: An Act Concerning Employee Misclassification

This act establishes a permanent five-member enforcement commission to address the problem of employers avoiding state and federal labor, employment, and tax law obligations by misclassifying their employees. Misclassification often involves an employer treating employees as independent contractors in order to avoid paying WC insurance premiums and unemployment taxes.

PA 08-181: An Act Concerning the Marketing of Medical Discount Plans, the Issuing of Small Employer Plans and Arrangements by the Comptroller and Association Groups, and an Offset of the Annual Standard Premium Required Of Workers' Compensation Self-Insurance Groups

Among other things, this act permits a proposed WC self-insurance group to offset or reduce its annual standard premium by depositing equivalent liquid assets in an interest-bearing claims reserve account set up in the group's name. It prohibits the group from pledging, mortgaging, or otherwise encumbering its assets to secure debt, guaranty, or obligations.

PA 09-69: An Act Concerning Appeals by Workers' Compensation Commissioners of Decisions of the Judicial Review Council

This act authorizes workers' compensation commissioners to appeal a Judicial Review Council (JRC) decision to the Supreme Court under rules the Supreme Court adopts. The JRC investigates complaints against judges, compensation commissioners, and family support magistrates.

PA 09-88: An Act Concerning Workers' Compensation Premiums and Volunteer Ambulance Companies

This act requires the state-licensed WC risk rating organization to file with the insurance commissioner a method of computing WC premiums for volunteer staff of municipal or volunteer ambulance services that does not base the premium primarily on the number of ambulances the service owns. The premium instead must be based primarily on ambulance usage as determined by the estimated annual number of service call responses.

PA 09-104: An Act Concerning Evidence of Workers' Compensation Insurance for Contractors on Public Works Projects

The law requires applicants for a business license or permit to present "sufficient evidence" of compliance with the WC insurance coverage requirements. This act allows applicants for licenses and permits issued by the Department of Consumer Protection to meet the sufficient evidence requirement by providing the name of the applicant's insurer, the policy number, and the effective coverage dates, certified as truthful and accurate, as an alternative to presenting a hard copy of the insurance certificate. Prior law required applicants to present a hard copy of a certificate of self-insurance issued by a workers' compensation commissioner, a certificate of compliance issued by the insurance commissioner, or a certificate of insurance issued by a stock or mutual insurance company.

PA 09-178: An Act Concerning Certain Appeal Procedures

By law, a party can appeal a workers' compensation commissioner's decision to the Compensation Review Board. A party can then appeal the board's decision on a question of law to the Appellate Court. Formerly, under case law, the Appellate Court would not hear the appeal unless it was from a final judgment of the board. This act allows a party to appeal the board's decision even if it is not considered a final decision under the provisions on appealing (1) administrative decisions under the Uniform Administrative Procedures Act or (2) decisions from the Superior Court. Both of these provisions require appeals from a final decision or judgment unless a law provides otherwise.

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 in order to pay lower WC insurance premiums 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. It 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 WC and fails to pay the required state assessments for (1) administration of the Workers' Compensation Commission and (2) administration and funding of the Second Injury Fund, is guilty of a class D felony and subject to a stop-work order.

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

PA 11-205: An Act Concerning the Resolution of Liens in Workers' Compensation Cases

This act reduces an employer's claim for reimbursement of WC 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) Second Injury Fund administrator.

By law, the employee or employer or Second Injury Fund administrator paying benefits can bring such a lawsuit. The individual 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 abated. 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.

PA 11-1, October Special Session: An Act Promoting Economic Growth and Job Creation in the State

Among other things, this act expands the types of insurance a “captive” insurance company may transact in Connecticut. (In general, a captive insurance company is an insurance company (1) that is a wholly owned subsidiary of another company and (2) whose primary function is to insure all or a part of its controlling company’s risks.) Under prior law, a captive could transact life insurance, annuity, health insurance, and commercial risk insurance business. The act instead allows a captive to transact any form of insurance not disapproved by the insurance commissioner or otherwise prohibited. It also authorizes a captive to provide excess WC insurance to its parent and affiliated companies and to reinsure the WC risks of a qualified self-insured plan of its parent and affiliated companies, unless prohibited by law.

PA 12-126: An Act Concerning Workers’ Compensation for Firefighters

This act extends WC coverage for mental or emotional impairment to a paid or volunteer firefighter diagnosed with post-traumatic stress disorder (PTSD) because the firefighter witnessed the death of another firefighter while engaged in the line of duty. To be eligible, the firefighter (1) must be diagnosed by a licensed and board certified mental health professional who determines the PTSD stems from witnessing the death of another firefighter and (2) must not be subject to any other exclusion under workers’ compensation law. The WC benefits under the act are limited to treatment from a practicing psychologist or psychiatrist on an approved list established by the Workers’ Compensation Commission chairperson.

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