



# Legislative Activity Report

National Council on Compensation Insurance

The nation's most experienced provider of workers compensation information, tools, and services

Regulatory Services

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RLA-2015-08

Report Contact: Legislative\_Activity@ncci.com

State Issues Contacts: Please refer to the list of State Relations Executives at the end of this report.

## LEGISLATIVE ACTIVITY—LEGISLATIVE SESSION UPDATES

*This report contains descriptions and/or excerpts of relevant bills that have passed the first chamber, passed the second chamber, or have been enacted during the specific periods. In addition, a recap of significant legislative and judicial activity impacting the workers compensation system will be included in the first report published each month. This report is issued on a weekly basis throughout the legislative season, and it provides updates on the content of these bills if and when they progress through the legislative process. This report includes bills from states where NCCI provides ratemaking services (see state list under Contact Information) and the US Congress.*

### BILLS ENACTED

The following bill was enacted within the one-week period ending February 20, 2015.

### Montana

**SB 4** was:

- Passed by the first chamber on January 20, 2015
- Included in NCCI's January 30, 2015 *Legislative Activity Report* (RLA-2015-04)
- Passed by the second chamber on February 9, 2015
- Included in NCCI's February 20, 2015 *Legislative Activity Report* (RLA-2015-07)
- Enacted on February 18, 2015, with an effective date of October 1, 2015

**SB 4** amends *section 39-71-2901, Location of office—court powers—withdrawal—substitution* of the Montana Code Annotated 2014 as follows:

**Section 39-71-2901, Location of office—court powers—withdrawal—substitution—vacancy.**

...

(3) The workers' compensation judge shall withdraw from all or part of any matter if the judge believes the circumstances make disqualification appropriate. In the case of a withdrawal, the workers' compensation judge shall designate and contract for a substitute workers' compensation judge to preside over the proceeding from the list provided for in subsection ~~(4)~~ ~~(6)~~ (7).

(4) If the office of the workers' compensation judge becomes vacant and before the vacancy is permanently filled pursuant to Title 3, chapter 1, part 10, the chief justice of the Montana supreme court shall appoint a substitute judge within 30 days of receipt of the notice of vacancy. The chief justice shall select a substitute judge from the list provided in subsection ~~(6)~~ (7) or from the pool of retired state district court judges. The chief justice may appoint a substitute judge for a part of the vacancy or for the entire duration of the vacancy, and more than one substitute judge may be appointed to fill a vacancy.

(5) If a temporary vacancy occurs because the workers' compensation judge is suffering from a disability that temporarily precludes the judge from carrying out the duties of office for more than 60 days, a substitute judge must be appointed from the substitute judge list identified in subsection (7) by the current judge, if able, or by the chief justice of the supreme court. The substitute judge may not serve more than 90 days after appointment under this subsection. This subsection applies only if the workers' compensation judge is temporarily unable to carry out the duties of office due to a disability, and proceedings to permanently replace the judge under title 3, chapter 1, part 10, may not be instituted.

~~(5)~~ (6) The A substitute judge must be compensated at the same hourly rate charged by the department of justice agency legal services bureau for the provision of legal services to state agencies. The A substitute judge must be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503. When the a substitute judge has accepted jurisdiction, the clerk of the workers' compensation court shall mail a copy of the assumption of jurisdiction to each attorney or party of record. The certificate of service must be attached to the assumption of jurisdiction form in the court file.

~~(4)~~ ~~(6)~~ (7) The workers' compensation judge shall maintain a list of persons who are interested in serving as a substitute workers' compensation judge in the event of a recusal by the judge or a vacancy and who prior to being put on the list of potential substitutes have been admitted to the practice of law in Montana for at least 5 years, currently reside in Montana, and have resided in the state for 2 years.

## BILLS PASSING SECOND CHAMBER

The following bills passed the second chamber within the one-week period ending February 20, 2015.

### Montana

**HB 103** was:

- Passed by the first chamber on January 23, 2015
- Included in NCCI's January 30, 2015 *Legislative Activity Report* (RLA-2015-04)
- Passed by the second chamber on February 17, 2015

**HB 103**, in part, amends *Title 33. Insurance and Insurance Companies* of the Montana Code Annotated 2014, related to casualty and property insurance guaranty associations, as follows:

**33-10-105. General powers and duties.**

(1) Subject to subsection (2), the association:

(a) (i) is obligated to the extent of the covered claims existing prior to the determination of insolvency and arising within 30 days after the determination of insolvency or before the policy expiration date if less than 30 days after the determination or before the insured replaces the policy or causes its cancellation if the insured does so within 30 days of the determination;

(ii) is obligated under subsection (1)(a)(i) only for that amount of each covered claim that does not exceed \$300,000, except that:

(A) the association shall pay an amount not exceeding \$10,000 for each policy for a covered claim for the return of unearned premium; and

(B) the association shall pay the full amount of any covered claim arising out of a workers' compensation or excess workers' compensation policy; and

...

### Virginia

**HB 1285** was:

- Passed by the first chamber on January 26, 2015
- Included in NCCI's February 6, 2015 *Legislative Activity Report* (RLA-2015-05)
- Passed by the second chamber on February 19, 2015

**HB 1285** amends *Section 65.2-101. Definitions.* of the Code of Virginia as follows:

**Section 65.2-101. Definitions.**

...

2. "Employee" shall not mean:

...

1. Except as otherwise provided in this title, noncompensated employees and noncompensated directors of (i) corporations exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (ii) property owners' associations as defined in Section 55-509.

...

"Executive officer" means (i) the president, vice-president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation and (ii) the managers elected or appointed in accordance with the articles of organization or operating agreement of a limited liability company. However, ~~such term~~ "executive officer" does not include (a) noncompensated officers of corporations exempt from taxation pursuant to Section 501(c)(3) of Title 26 of the United States Code (Internal Revenue Code of 1954) or (b) noncompensated officers of a property owners' association as such term is defined in Section 55-509.

...

**HB 1806** was:

- Passed by the first chamber on February 4, 2015
- Included in NCCI's February 13, 2015 *Legislative Activity Report* (RLA-2015-06)
- Amended and passed by the second chamber on February 19, 2015

**HB 1806** amends *section 65.2-101. Definitions and General Provisions* of the Code of Virginia as follows:

**§ 65.2-101. Definitions**

As used in this title:

...

"Employee" means:

...

2. "Employee" shall not mean:

...

o. An owner-operator of a motor vehicle that is leased with or to a common or contract carrier in the trucking industry if (i) the owner-operator performs services for the carrier pursuant to a contract that provides that the owner-operator is an independent contractor and shall not be treated as an employee for purposes of the Federal Insurance Contributions Act, 26 U.S.C. Section 3101

et seq., Social Security Act of 1935, P.L. 74-271, federal unemployment tax laws, and federal income tax laws and (ii) each of the following factors is present:

- (1) The owner-operator is responsible for the maintenance of the vehicle;
- (2) The owner-operator bears the principal burden of the vehicle's operating costs;
- (3) The owner-operator is the driver;
- (4) The owner-operator's compensation is based on factors related to the work performed and not on the basis of hours or time expended; and
- (5) The owner-operator determines the method and means of performing the service.

...

**HB 1880** was:

- Passed by the first chamber on January 28, 2015
- Included in NCCI's February 6, 2015 *Legislative Activity Report* (RLA-2015-05)
- Passed by the second chamber on February 18, 2015

**HB 1880** extends the existing 0.5% maximum tax rate that may be assessed on uninsured or self-insured employers for the Uninsured Employer's Fund until July 1, 2018.

**SB 938 H1** was:

- Passed by the first chamber on January 20, 2015
- Included in NCCI's January 30, 2015 *Legislative Activity Report* (RLA-2015-04)
- Amended and passed by the second chamber on February 16, 2015

**SB 938** amends various sections of the Code of Virginia related to fire services and emergency medical services including, but not limited to:

**Section 65.2-101. Definitions**

"Average weekly wage" means:

...

3. Whenever volunteer firefighters, volunteer ~~lifesaving or volunteer rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of community emergency response teams, and volunteer members of medical reserve corps are deemed employees under this title, their average weekly wage shall be deemed sufficient to produce the minimum compensation provided by this title for injured workers or their dependents. For the purposes of workers' compensation insurance premium calculations, the monthly payroll for each volunteer firefighter or volunteer ~~lifesaving or volunteer rescue squad member~~ who is an individual who meets the definition of "emergency medical services personnel" in Section 32.1-111.1 shall be deemed to be \$300.

...

"Employee" means:

...

1. 1. Except as provided in subdivision 2 of this definition, volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations, volunteer members of regional hazardous materials emergency response teams, volunteer members of community emergency response teams, and volunteer members of medical reserve corps, who shall be deemed employees of (i) the political subdivision or state institution of higher education in which the principal office of such volunteer fire company, volunteer ~~lifesaving or rescue squad~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police force, auxiliary or reserve deputy sheriff force, ~~volunteer emergency medical technicians~~, volunteer search and rescue organization, regional hazardous materials emergency response team, community emergency response team, or medical reserve corps is located if the governing body of such political subdivision or state institution of higher education has adopted a resolution acknowledging those persons as employees for the purposes of this title or (ii) in the case of volunteer firefighters or volunteer ~~lifesaving or rescue squad members~~ emergency medical services personnel, the fire companies or squads emergency medical services agencies for which volunteer services are provided whenever such companies or squads elect to be included as an employer under this title.

1. m. (1) Volunteer firefighters, volunteer ~~lifesaving or rescue squad members~~ emergency medical services agency personnel, volunteer law-enforcement chaplains, auxiliary or reserve police, auxiliary or reserve deputy sheriffs, ~~volunteer emergency medical technicians~~, members of volunteer search and rescue organizations and any other persons who respond to an incident upon request of the Department of Emergency Management, who shall be deemed employees of the Department of Emergency Management for the purposes of this title.

...

2. "Employee" shall not mean:

...

k. Except as provided in subdivision 1 of this definition, a member of a volunteer ~~fire fighting, lifesaving or rescue squad~~ fire

department or volunteer emergency medical services agency when engaged in activities related principally to participation as an individual who meets the definition of “emergency medical services personnel” in Section 32.1-111.1 or a member of such ~~squad~~ fire department whether or not the volunteer continues to receive compensation from his employer for time away from the job.

...  
“Employer” includes (i) any person, the Commonwealth or any political subdivision thereof and any individual, firm, association or corporation, or the receiver or trustee of the same, or the legal representative of a deceased employer, using the service of another for pay and (ii) any volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.

...  
**Section 65.2-102. Coverage of firefighters and law-enforcement officers in off-duty capacity.**

...  
B. For purposes of this section:

“Firefighter” means all (i) salaried firefighters, including special forest wardens designated pursuant to Section 10.1-1135, emergency medical ~~technicians, lifesaving and rescue squad members~~ services personnel, and arson investigators and (ii) volunteer firefighters and ~~lifesaving or rescue squad members~~ emergency medical services personnel, if the governing body of the political subdivision in which the principal office of such volunteer fire company or volunteer ~~lifesaving or rescue squad~~ emergency medical services agency is located has adopted a resolution acknowledging such volunteer fire company or volunteer ~~lifesaving and rescue squad~~ emergency medical services agency as employees for purposes of this title.

...  
**Section 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.**

...  
G. Volunteer ~~lifesaving and rescue squad members~~ emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, ~~the term “firefighter” shall include~~ includes special forest wardens designated pursuant to Section 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

...  
**Section 65.2-402.1. Presumption as to death or disability from infectious disease.**

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, ~~paramedic or~~ salaried or volunteer emergency medical technician services personnel, (ii) member of the State Police Officers’ Retirement System, (iii) member of county, city, or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, (ix) Capitol Police officer, (x) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (Section 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in Section 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to Section 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, or (xv) any campus police officer appointed under Chapter 17 (Section 23-232 et seq.) of Title 23 and employed by any public institution of higher education, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed “documented” if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed “documented” without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.

...  
**BILLS PASSING FIRST CHAMBER**

The following bills passed the first chamber within the one-week period ending February 20, 2015.

**Arizona**

**HB 2331** amends *section 23-1028. False statements or representations to obtain compensation; forfeiture; classification; sworn statement; definition* of the Arizona Revised Statutes as follows:

**§ 23-1028. False statements or representations to obtain compensation; forfeiture; classification; sworn statement; definition**

A. If in order to obtain any compensation, benefit or payment under the provisions of this chapter, either for himself or for another, any person knowingly makes a false statement or representation, ~~such the person is guilty of a class 6 felony, and, if the person is a claimant for compensation, benefit or payment, he the claimant shall in addition also~~ forfeit all right to such any future temporary or permanent disability compensation, benefit or payment for the claim on which the false statement or representation was made after

conviction of the offense. Forfeiture pursuant to this section does not terminate on any subsequent designation of the offense as a misdemeanor.

B. Notwithstanding section 13-801, a sentence to pay a fine for a violation of this section by a claimant or co-employee shall be a sentence to pay an amount fixed by the court of not more than fifty thousand dollars.

C. Any person who commits a violation under this section is also subject to the penalties prescribed in sections 20-466.02 and 20-466.04.

D. A claimant for compensation shall personally sign any monthly or annual income status report that requests the claimant to report employment status or earnings to the insurance carrier or self-insured employer, including the annual report of earnings pursuant to section 23-1047. The reporting document shall contain the following statement:

Any person who knowingly makes a false statement or representation to obtain any compensation, benefit or payment is guilty of a class 6 felony and is subject to up to one and one-half years in prison, a fifty thousand dollar fine and forfeiture of benefits. By my signature below, I am applying for all benefits to which I may be entitled and I swear that the statements made on this application are true, correct and complete to the best of my knowledge.

~~D.~~ E. For the purposes of this section, “statement” includes any notice, proof of injury, bill for services, payment for services, hospital or doctor records, x-rays, test reports, medical or legal expenses, or other evidence of loss or injury, or other expense or payment.

**HB 2346** amends *section 36-2814. Acts not required; acts not prohibited* of the Arizona Revised Statutes as follows:

**§ 36-2814. Acts not required; acts not prohibited**

A. Nothing in this chapter requires:

1. A government medical assistance program, ~~or a private health insurer or a workers’ compensation carrier or self-insured employer providing workers’ compensation benefits~~ to reimburse a person for costs associated with the medical use of marijuana.

...

## Missouri

**HB 615** amends various sections of the Missouri Annotated Statutes to:

- Specify that independent contractors providing application of agricultural materials used in crop dusting, seeding, spraying, or fertilizing operations from an aircraft are not statutory employees for the purposes of workers compensation.
- Exempt veterans’ organization volunteers who are not paid wages from coverage under workers compensation statutes.
- Provide that the phrase “notice of dispute” shall include, but not be limited to, an explanation of benefits delivered with final payment of the medical fee or charge that evidences that the payment is considered to be the full payment of the fee or charge.
- Allow the Division of Workers’ Compensation to continue to pay, on an ongoing basis, Second Injury Fund liabilities for physical rehabilitation payments; medical expenses for injuries to employees of uninsured employers occurring prior to January 1, 2014; and wage loss benefits for wages lost from secondary employment for injuries occurring prior to January 1, 2014, without regard to the priority of other fund liability payments.
- Make changes to the uniform experience rating plan. Currently, the rating plan prohibits an adjustment to the experience modification of an employer if the total medical cost does not exceed \$1,000. This bill changes that amount to 20% of the current split point of primary excess losses under the uniform experience rating plan.
- Allow construction employers to submit payroll information to the advisory organization that makes the uniform classification system in order to calculate the premium credit under the Missouri contracting classification premium adjustment program.

*NCCI estimates that proposed Missouri House Bill 615, if enacted in its current form, may result in a negligible impact to workers compensation system costs in Missouri.*

## New Mexico

**HB 238** amends section *52-1-11. Injuries due to intoxication willfulness or intention of worker are noncompensable* and *52-1-12.1. Reduction in compensation when alcohol or drugs contribute to injury or death* of the New Mexico Statutes Annotated as follows:

**52-1-11. Injuries due to intoxication caused by the willfulness or intention of worker are noncompensable.**

No compensation shall become due or payable from any employer under the terms of the Workers’ Compensation Act in the event such injury was occasioned by the intoxication of such worker or willfully suffered by him the worker or intentionally inflicted by himself the worker.

**52-1-12.1. Reduction in compensation when alcohol or drugs contribute to injury or death.**

~~—The compensation otherwise payable a worker pursuant to the Workers’ Compensation Act shall be reduced ten percent in cases in which the injury to or death of a worker is not occasioned by the intoxication of the worker as stated in Section 52-1-11 NMSA 1978 or occasioned solely by drug influence as described in Section 52-1-12 NMSA 1978, but voluntary intoxication or being under the influence of a depressant, stimulant or hallucinogenic drug as defined in the New Mexico Drug, Device and Cosmetic Act or under the influence of a narcotic drug as defined in the Controlled Substances Act, unless the drug was dispensed to the person upon the prescription of a practitioner licensed by law to prescribe the drug or administered to the person by any person authorized by a licensed practitioner to administer the drug, is a contributing cause to the injury or death. Test results used as evidence of intoxication or drug influence shall not be considered in making a determination of intoxication or drug influence unless the test and testing procedures conform to the federal department of transportation “procedures for transportation workplace drug and alcohol testing~~

programs” and the test is performed by a laboratory certified to do the testing by the federal department of transportation.

A. As used in this section, “intoxication” or “influence” means a temporary state or condition of impaired physical, mental or cognitive function by means of alcohol, a drug, a controlled substance or a combination of two or more substances at the time of injury or death. “Drug” or “controlled substance” pursuant to this section does not include medications prescribed to a worker by the worker’s licensed health care provider and taken in accordance with directions of the prescribing health care provider or dispensing pharmacy, unless such medication is combined with alcohol or a non-prescribed drug or controlled substance to cause intoxication or influence.

B. Compensation benefits otherwise due and payable from an employer under the terms of the Workers’ Compensation Act shall be reduced by the degree to which the intoxication or influence contributes to the worker’s injury or death; provided that the reduction shall be a minimum of thirty-five percent but no more than eighty-five percent, subject to the other requirements of this section.

C. Test results relied on as evidence of a worker’s intoxication or influence shall not be considered in making a reduction in compensation determination unless the test and testing procedures conform with standard testing procedures generally accepted in the medical community and the test is performed by a laboratory certified to do the testing by an organization nationally recognized to do such certification. Testing may include testing methods for urine, breath or blood.

D. The director shall adopt rules regarding tests, testing and the cutoff levels for intoxication or influence.

E. If a post-accident test pursuant to Subsection C of this section is required of a worker and the worker refuses to submit to the test or to release the post-accident test results to the employer, no compensation otherwise payable from an employer under the terms of the Workers’ Compensation Act shall be paid to the worker claiming compensation.

F. Testing shall be at the employer’s expense and shall not be used as evidence in a criminal proceeding against the worker. Test samples shall be taken as a split sample. One part of the sample shall be held by the testing facility for twelve months from the date of the original test. Within this twelve-month period, the worker has the right to request a second test of the original sample at the worker’s expense.

G. An employer shall be barred from claiming a reduction in compensation pursuant to this section if the employer fails to implement a written policy that declares a drug and alcohol-free workplace, which may include post-accident testing in accordance with this section, and that gives its employees notice that workers’ compensation benefits may be reduced in the event intoxication or influence contributes to a workplace injury.

H. Reduction or denial of compensation benefits authorized under this section shall not affect payment of medical benefits provided for pursuant to Section 52-1-49 NMSA 1978.

**HB 238** also repeals *section 52-1-12. Compensation prohibited when worker under influence of certain drugs* below:

**~~§ 52-1-12. Compensation prohibited when worker under influence of certain drugs~~**

~~No compensation is payable from any employer under the provisions of the Workers’ Compensation Act if the injury to the person claiming compensation was occasioned solely by the person being under the influence of a depressant, stimulant or hallucinogenic drug as defined in the New Mexico Drug, Device and Cosmetic Act or under the influence of a narcotic drug as defined in the Controlled Substances Act unless the drug was dispensed to the person upon the prescription of a practitioner licensed by law to prescribe the drug or administered to the person by any person authorized by a licensed practitioner to administer the drug.~~

## South Dakota

**HB 1105**, adds 4 new sections to *chapter 62-1 Definitions and General Provisions* of the South Dakota Codified Laws as follows:

**Section 1.**

Any independent contractor who is not an employer or a general contractor and is not covered under a workers’ compensation insurance policy may sign an affidavit of exempt status under the South Dakota Workers’ Compensation Law. Notwithstanding the provisions of § 62-3-10, the affidavit of exempt status creates a rebuttable presumption that the affiant is not an employee for the purposes of the South Dakota Workers’ Compensation Act and the person possessing the affidavit is not liable for a workers’ compensation claim made by the affiant or any subcontractor of the affiant.

**Section 2.**

The affidavit must be on a form prescribed by the director of the Division of Insurance and must be notarized. The director of the Division of Insurance may promulgate rules pursuant to chapter 1-26 to provide definitions, the form and process for filing the affidavit, and documentation required for filing an affidavit of exemption from the South Dakota Workers’ Compensation Law. The affidavit of exempt status shall contain substantially the following:

(1) Statements that the affiant:

- (a) Is not an employee and does not want a workers’ compensation insurance policy;
- (b) Has read, signed, and understands the exempt status fact sheet attachment to the affidavit;
- (c) Understands that the affiant will be considered an independent contractor and will not be considered an employee under the South Dakota Workers’ Compensation Law;
- (d) Understands that the affiant will not be eligible for compensation under the South Dakota Workers’ Compensation Law;
- (e) Understands that the signing of the affidavit creates a rebuttable presumption that the affiant is not an employee for the purpose of the South Dakota Workers’ Compensation Act;
- (f) Understands that the signing of the affidavit does not affect the rights or coverage of any employee of the affiant;
- (g) Is not signing the affidavit or providing information as a result of force, threat, coercion, compulsion, or duress; and
- (h) Understands that knowingly providing false information on an affidavit of exempt status under the South Dakota Workers’ Compensation Law is a Class 2 misdemeanor; and

- (2) An exempt status fact sheet, to be attached to the affidavit, which:
- (a) Delineates the legal requirements recognized in law for determining whether a person is an independent contractor; and
  - (b) Contains a statement that the affiant believes they are an independent contractor given the preceding list of legal requirements.

**Section 3.**

Any person who solicits or provides false information on an affidavit of exempt status under the South Dakota Workers' Compensation Law with actual knowledge is guilty of a Class 2 misdemeanor.

**Section 4.**

No employer or general contractor is required to accept an affidavit of exempt status as a substitute for a certificate of workers' compensation coverage.

**Vermont**

**SB 23** adds new *section 662a. Final settlement of claims; required disclosure* to **Title 21, Chapter 9** of the Vermont Statutes Annotated, related to disclosures for workers compensation settlements, as follows:

**Section 662a. Final settlement of claims; required disclosure**

If an employer and an injured employee enter into an agreement that constitutes a full and final settlement of all or a part of the employee's claim, the Commissioner shall not approve the agreement pursuant to section 662 of this chapter unless:

(1) The employer provides the employee with a written disclosure statement explaining the consequences of the proposed agreement with respect to the employee's rights under the provisions of this chapter to obtain compensation, vocational rehabilitation, and medical benefits, including ongoing and future surgical, medical, and nursing services and supplies. At a minimum, the disclosure statement shall:

(A) clearly state the amount for which the employer and employee have agreed to settle the claim;

(B) describe the employee's injury, including any rating assigned to that injury and the approximate amount of compensation that the employer would be required to pay to the employee under the provisions of this chapter if the employer and employee did not enter into the agreement;

(C) specifically identify all current or ongoing medical benefits that will terminate as a result of the agreement; and

(D) specifically identify any rights to obtain compensation, vocational rehabilitation, and medical benefits under the provisions of this chapter that the employee will relinquish by agreeing to the settlement.

(2) The employee signs the disclosure statement provided pursuant to subdivision (1) of this section acknowledging that he or she has been fully informed of and understands the terms and conditions of the proposed agreement and its consequences with respect to his or her rights under the provisions of this chapter to obtain compensation, vocational rehabilitation, and medical benefits, including ongoing and future surgical, medical, and nursing services and supplies.

**Contact Information**

If you have any questions about the legislation or proposals mentioned, please contact the appropriate NCCI state relations executive (listed below) or a representative of your local insurance trade association.

State	State Relations Executive	Phone Number
CT, ME, NH, RI ,VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Cathy Booth	205-655-2699
AZ, CO, NM, NV, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
AK, HI	Carolyn Pearl	808-524-6239
IN, NC, SC, TN	Amy Quinn	803-356-0851
AR, IL, KS, TX	Terri Robinson	501-333-2835
ID, MT, OR	Mike Taylor	503-892-1858
MO, NE, OK, SD	Susan Schulte	573-392-5553
Federal Issues	Tim Tucker	202-403-8526

This report is informational and is not intended to provide an interpretation of state and federal legislation.