



State or Federal 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 passed the first chamber, passed the second chamber, or were 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

There were no relevant workers compensation-related bills enacted within the one-week period ending February 3, 2017.

### BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending February 3, 2017.

### BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending February 3, 2017.

#### Arkansas

**HB 1262** amends **section 11-14-101(b)**. **Legislative intent** of the Arkansas Code as follows:

**§ 11-14-101. Legislative intent.**

...

~~(b)(1)~~ If an employer implements a drug-free workplace program ~~in accordance with~~ under this chapter that includes notice, education, and procedural requirements for testing for drugs and alcohol ~~pursuant to~~ under rules developed by the Workers' Health and Safety Division of the Workers' Compensation Commission, the covered employer may require the employee to submit to a test for the presence of drugs or alcohol, and if a drug or alcohol is found to be present in the employee's system at a level prescribed by statute or by rule adopted ~~pursuant to~~ under this chapter as excessive, the employee may be terminated and may be precluded from workers' compensation medical and indemnity benefits.

~~(2)~~ However, a drug-free workplace program ~~must~~ shall require the covered employer to notify all employees that it is a condition of employment for an employee to refrain from reporting to work or working with the presence of drugs or alcohol in the employee's body, and if an injured employee refuses to submit to a test for drugs or alcohol, the employee may be precluded from workers' compensation medical and indemnity benefits. ~~In the event of termination, an employee shall be entitled to contest the test results before the Department of Labor.~~

#### Montana

**SB 142** amends **sections 7-33-4510**. **Workers' compensation for volunteer firefighters—definitions**, **7-34-103**. **Manner of providing ambulance service**, and **39-71-118**. **Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined** of the Montana Code Annotated Statutes as follows:

**7-33-4510. Workers' compensation for volunteer firefighters—notification if coverage not provided—definitions.**

...

~~(4)~~ If an employer does not provide workers' compensation coverage, the employer shall annually notify the employer's volunteer firefighters that coverage is not provided.

~~(4)~~ ~~(5)~~ For the purposes of this section, the following definitions apply:

(a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33, including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, or a volunteer rural fire control crew.

...

**7-34-103. Manner of providing ambulance service.**

- (1) If a county, city, or town establishes or maintains ambulance service, ~~it may,~~ acting through its governing board, it:
  - (a) may operate the ambulance service itself or contract for ambulance service;
  - (b) may buy, rent, lease, or otherwise contract for vehicles, equipment, facilities, operators, or attendants;
  - (c) may sell ambulance service insurance or contract with a third-party entity to sell ambulance service insurance to persons who use the ambulance service that covers the cost of the ambulance service that is not otherwise covered;
  - (d) may adopt rules and establish fees or charges for the furnishing of an ambulance service; and
  - (e) shall, if the service does not provide workers' compensation coverage, annually notify the service's volunteer emergency medical technicians that coverage is not provided.

...

**39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical technician defined—election of coverage.**

...

(10) (a) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g) or the paid or volunteer nontransporting medical unit. The ambulance service or nontransporting medical unit may purchase workers' compensation coverage from any entity authorized to provide workers' compensation coverage under plan No. 1, 2, or 3 as provided in this chapter.

...

(e) An ambulance service not otherwise covered by subsection (1)(g) or a nontransporting medical unit, as defined in 50-6-302, that does not elect to purchase workers' compensation coverage for its volunteer emergency medical technicians under the provisions of this section shall annually notify its volunteer emergency medical technicians that coverage is not provided.

~~(e)~~ (f) (i) The term "volunteer emergency medical technician" means a person who has received a certificate issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or county.

(ii) The term does not include a volunteer emergency medical technician who serves an employer as defined in 7-33-4510.

~~(f)~~ (g) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the service of an employer or as a volunteer for a town, city, or county, including but not limited to training time, response time, and time spent at the employer's premises.

...

**New Hampshire**

**HB 150, in part, amends *sections 412:5 Approval of Form* and *412:15 Rate Standards* of the New Hampshire Statutes as follows:**

**Section 412:5 Approval of Form.**

I. Every insurer and advisory organization shall file policy forms, endorsements, and other contract language covered by this chapter and RSA 264, for a waiting period of 30 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 30 days if written notice or electronic notice is given within the initial 30-day waiting period to the insurer or advisory organization which made the filing that additional time is needed for the consideration of the filing. Upon written application by the insurer or advisory organization, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or extension thereof. The commissioner may disapprove such form if it contains a provision that does not comply with the requirements of law, is not in the public interest, is contrary to public policy, is inequitable, misleading, deceptive, or encourages misrepresentation of such policy. An approved filing and any supporting information that is not exempt from disclosure by law or rule shall be open to public inspection on or after the ~~effective date of the filing~~ that the filing is approved or the effective date, whichever is later. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or extension thereof. Every policy issued by an insurer on an unapproved form shall constitute a separate violation under RSA 412:40.

...

**Section 412:15 Rate Standards.**

Rates shall be made in accordance with the following provisions:

I. Rates shall not be excessive, inadequate, or unfairly discriminatory.

(a) A rate in a competitive market ~~is not excessive~~ shall not be disapproved for being excessive.

...

## Utah

**SB 57**, in part, amends **section 59-9-101. Tax basis—Rates—Exemptions—Rate reductions** of the Utah Code Annotated as follows:  
**59-9-101. Tax basis—Rates—Exemptions—Rate reductions**

...

(2) (a) An admitted insurer writing workers' compensation insurance in this state, including the Workers' Compensation Fund created under Title 31A, Chapter 33, Workers' Compensation Fund, shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, ~~2017~~ 2022, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, ~~2018~~ 2023, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, ~~2017~~ 2022, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, ~~2018~~ 2023, 0% of the total workers' compensation premium income;

(ii) an amount equal to ~~0.25%~~ .25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to ~~0.5%~~ .5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, ~~0.5%~~ .5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

...

**SB 62 Substitute** amends **sections 34A-2-104. "Employee," "worker," and "operative" defined—Specific circumstances—Exemptions, 34A-2-1003. Issuance of waiver, and 34A-2-1004. Information required to obtain a waiver** of the Utah Code Annotated as follows:

**34A-2-104. "Employee," "worker," and "operative" defined—Specific circumstances—Exemptions.**

...

(3) (a) (i) A Except as provided in Subsection (3)(b), a partnership or sole proprietorship may elect to include any partner of the partnership or owner of the sole proprietorship as an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act.

~~(b)~~ (ii) If a partnership or sole proprietorship makes an election under Subsection (3)(a), the partnership or sole proprietorship shall serve written notice upon its insurance carrier naming the persons to be covered.

~~(c)~~ (iii) A partner of a partnership or owner of a sole proprietorship may not be considered an employee of the partner's partnership or the owner's sole proprietorship under this chapter or Chapter 3, Utah Occupational Disease Act, until the notice described in Subsection (3)(b) is given.

~~(d)~~ (iv) For premium rate making, the insurance carrier shall assume the salary or wage of the partner or sole proprietor electing coverage under Subsection (3)(a) to be 100% of the state's average weekly wage.

(b) A partner of a partnership or an owner of a sole proprietorship is an employee of the partnership or sole proprietorship under this chapter and Chapter 3, Utah Occupational Disease Act, if:

(i) the partnership or sole proprietorship:

(A) is a motor carrier; and

(B) employs at least one individual who is not a partner or an owner; and

(ii) the partner or owner personally operates a motor vehicle for the motor carrier.

(4) (a) Except as provided in Subsection (4)(g), a corporation may elect not to include any director or officer of the corporation as an employee under this chapter and Chapter 3, Utah Occupational Disease Act.

...

(g) Subsection (4)(a) does not apply to a director or an officer of a motor carrier if the director or officer personally operates a motor vehicle for the motor carrier.

...

(7) ~~For purposes of Subsection (5)(d)~~ As used in this section:

(a) "Motor carrier" means a person engaged in the business of transporting freight, merchandise, or other property by a commercial vehicle on a highway within this state.

(b) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways, including a trailer or semitrailer designed for use with another motorized vehicle.

(c) "Occupational accident related insurance" means insurance that provides the following coverage at a minimum aggregate policy limit of \$1,000,000 for all benefits paid, including medical expense benefits, for an injury sustained in the course of working under a written agreement described in Subsection (5)(d)(iii):

(i) disability benefits;

(ii) death benefits; and

(iii) medical expense benefits, which include:

(A) hospital coverage;

(B) surgical coverage;

(C) prescription drug coverage; and

(D) dental coverage.

(8) For an individual described in Subsection (5)(d); :

(a) if the individual is not covered by a workers' compensation policy, the individual shall obtain:

(i) occupational accident related insurance; and

(ii) a waiver in accordance with Part 10, Workers' Compensation Coverage Waivers Act; and

(b) the commission shall verify the existence of occupational accident insurance coverage with the coverage and benefit limits

listed in Subsection (7)(c) before the commission may issue a workers' compensation coverage waiver to the individual pursuant to Part 10, Workers' Compensation Coverage Waivers Act.

#### **34A-2-1003. Issuance of a waiver.**

(1) The commission shall issue a workers' compensation coverage waiver to a business entity that:

(a) elects not to include an owner, partner, or corporate officer or director as an employee under a workers' compensation policy in accordance with Section 34A-2-103 and Subsection 34A-2-104(3) or (4);

...

#### **34A-2-1004. Information required to obtain a waiver.**

To obtain or renew a waiver, a business entity shall submit to the commission:

...

(2) a copy of one item listed in Subsection (1) and a copy of two or more of the following:

...

(c) an advertisement of services showing the business entity's name and contact information:

(i) in a newspaper of general circulation or ;

(ii) in a telephone directory showing the business entity's: (i) name; and (ii) contact information. ;

(iii) on a website or social media; or

(iv) in a trade magazine.

## **Virginia**

**HB 1659** Substitute amends *Section 65.2-309. Lien against settlement proceeds or verdict in third party suit; subrogation of employer to employee's rights against third parties; evidence; recovery; compromise* of the Code of Virginia as follows:

**Section 65.2-309. Lien against settlement proceeds or verdict in third party suit; subrogation of employer to employee's rights against third parties; evidence; recovery; compromise**

...

E. Any arbitration held by the employer in the exercise of such right of subrogation (i) shall be limited solely to arbitrating the amount and validity of the employer's lien, (ii) shall not affect the employee's rights in any way, and (iii) shall not be held unless:

1. Prior to the commencement of such arbitration the employer has provided the injured employee and his attorney, if any, with an itemization of the expenses associated with the lien that is the subject of the arbitration;

2. Upon receipt of the itemization of the lien, the employee shall have 21 days to provide a written objection to any expenses included in the lien to the employer, and if the employee does not do so any objections to the lien to be arbitrated shall be deemed waived;
3. The employer shall have 14 days after receipt of the written objection to notify the employee of any contested expenses that the employer does not agree to remove from the lien, and if the employer does not do so any itemized expense objected to by the employee shall be deemed withdrawn and not included in the arbitration; and
4. Any contested expenses remaining shall have been submitted to the Commission for a determination of their validity and the Commission has made such determination of validity prior to the commencement of the arbitration.

**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.

<b>State</b>	<b>State Relations Executive</b>	<b>Phone Number</b>
CT, ME, NH, RI, VT	Laura Backus Hall	802-454-1800
FL, IA	Chris Bailey	850-322-4047
AL, GA, KY, LA, MS	Laura Hart Bryan	225-618-8168
AK, AZ, CO, NM, UT	Maggie Karpuk	818-707-8374
DC, MD, VA, WV	David Benedict	804-380-3005
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, NV, OR	Jessica Epley	503-892-8919
MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

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