



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

The following workers compensation-related bills were enacted within the one-week period ending April 14, 2017.

Kansas

HB 2140 was:

- Passed by the first chamber on February 22, 2017
- Amended and passed by the second chamber on March 29, 2017
- Included in NCCI's April 14, 2017 **Legislative Activity Report** (RLA-2017-14)
- Enacted on April 12, 2017, and will be effective from and after its publication in the *Kansas Register*

HB 2140 authorizes the governor to enter into the Great Plains Interstate Fire Compact. The language includes, but is not limited to, the following:

Section 1.

...

ARTICLE V

...

Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

...

Section 2.

A volunteer firefighter entitled to benefits under the workers compensation act who is engaged by the state of Kansas under the compact pursuant to section 1, and amendments thereto, shall be deemed to be an employee of the state of Kansas solely for purposes of the workers compensation act.

Kentucky

HB 377 was:

- Passed by the first chamber on February 28, 2017
- Amended and passed by the second chamber on March 30, 2017
- Included in NCCI's April 7, 2017 **Legislative Activity Report** (RLA-2017-13)
- Enacted and effective on April 10, 2017

HB 377, as amended:

- Creates a new section of Kentucky Revised Statutes (KRS) Chapter 342 for the General Assembly to declare its intent regarding the issues surrounding the Kentucky coal workers' pneumoconiosis fund
- Creates a new section of KRS Chapter 342 to:

- Close the coal workers' pneumoconiosis fund as of July 1, 2017, to all new claims
- Transfer liabilities and assets to the Kentucky Employers' Mutual Insurance Authority
- Set forth assessment requirements for 2017 and 2018
- Amends KRS 342.1242, 342.316, 342.320, 342.732, 342.792, 342.794, and 342.120 to bring the statutes into conformity with closing the coal workers' pneumoconiosis fund and transfer to the Kentucky Employers' Mutual Insurance Authority
- Repeals KRS 342.1241

Maine

LD 592 was:

- Passed by the first chamber on March 30, 2017
- Included in NCCI's April 7, 2017 **Legislative Activity Report** (RLA-2017-13)
- Passed by the second chamber on April 4, 2017
- Included in NCCI's April 14, 2017 **Legislative Activity Report** (RLA-2017-14)
- Enacted on April 11, 2017, with a projected effective date of September 19, 2017

LD 592 amends **Title 24-A, Chapter 52, section 3714. Accounting; assessments** of the Maine Revised Statutes as follows:
§ 3714. Accounting; assessments

...

7. High-risk program. The company shall maintain a high-risk program subject to the following provisions.

A. An employer must be placed in the high-risk program if the employer has at least 2 lost-time claims, each greater than \$10,000 of incurred loss, and a loss ratio greater than 1.0 during the previous 3-year experience rating period. Notwithstanding paragraph C, an employer may also be placed in the high-risk program during the term of a policy for noncompliance with reasonable safety standards. [2001, c. 350, §10 (NEW).]

B. The board, with the approval of the superintendent, may modify the eligibility standards for the high-risk program if those standards limit those in the program to employers who have measurably adverse loss experience, have a relatively high claim frequency record or have demonstrated an attitude or practice of noncompliance with reasonable safety requirements or claims management standards. [2001, c. 350, §10 (NEW).]

C. Eligibility requirements must be applied annually at the policy renewal date or, if the necessary claim history is not available at that time, 30 days after notice to the insured. [2001, c. 350, §10 (NEW).]

D. Deductibles in the high-risk program are subject to this paragraph.

(1) A deductible applies to all coverage for policyholders in the high-risk program that meet the following qualifications:

(a) A net annual premium of \$20,000 or more, subject to adjustment pursuant to this paragraph, in the State;

(b) A premium not subject to retrospective rating; and

(c) The policyholder's threshold loss ratio is 1.0 or greater.

The deductible is \$1,000 a claim but applies only to wage loss benefits paid on injuries occurring during the year of coverage. The sum of all deductibles in one year of coverage may not exceed the lesser of 15% of net annual payment for coverage or \$25,000. Each loss to which a deductible applies must be paid in full by the company. After the year of coverage has expired, the policyholder shall reimburse the company the amount of the deductibles. This reimbursement is considered as payment for coverage for purposes of cancellation or nonrenewal.

The board shall adjust annually the \$20,000 payment-of-coverage level established in this subparagraph to reflect any change in rates for the high-risk program and any change in wage levels in the preceding calendar year. Changes in wage levels are determined by reference to changes in the state average weekly wage, as computed by the Department of Labor. Any adjustment is rounded off to the nearest \$1,000 increment.

(2) The board may modify, with the approval of the superintendent, the mandatory deductible elements. Any modification or elimination of this rating feature must consider the incentive impact on an employer, the reasonableness of the retained cost relative to the claim history, safety record or claims management practices of affected employers and the ability of all employers to absorb these costs. [2001, c. 350, §10 (NEW).]

E. The board may file with the superintendent retrospective rating plans that, after hearing, may be imposed on an employer with a demonstrated record of repeated serious violations of workplace health and safety rules and regulations such as those adopted under Title 26, chapter 6 or 29 United States Code, Chapter 15, whichever is applicable. [2001, c. 350, §10 (NEW).]

F. The board shall develop and file with the superintendent and, if not disapproved by the superintendent, make available to policyholders on a voluntary basis retrospective rating plans. [2001, c. 350, §10 (NEW).]

G. Not more than 30 days after assignment to the high-risk program, a policyholder may appeal the assignment in writing to the bureau. [2001, c. 350, §10 (NEW).]

H. The board, with the approval of the superintendent, shall implement a plan for surcharges for policyholders in the high-risk program based on the policyholder's specific loss experience beyond the uniform experience rating plan approved by the superintendent. Any plan of surcharges must consider the actual claims experience of the employer and must provide for rate adjustments reasonably related to the employer's risk of loss.

8. Filing of retrospective rating plans. The board may file with the superintendent retrospective rating plans that, after hearing, may be imposed on an employer with a demonstrated record of repeated serious violations of workplace health and safety rules and regulations such as those adopted under Title 26, chapter 6 or 29 United States Code, Chapter 15, whichever is applicable.

9. Availability of retrospective rating plans. The board shall develop and file with the superintendent and, if not disapproved by the superintendent, make available to policyholders on a voluntary basis retrospective rating plans.

Maryland

HB 1294 was:

- Passed by the first chamber on March 18, 2017
- Included in NCCI's March 31, 2017 **Legislative Activity Report** (RLA-2017-12)
- Passed by the second chamber on April 3, 2017
- Included in NCCI's April 14, 2017 **Legislative Activity Report** (RLA-2017-14)
- Enacted on April 11, 2017, with an effective date of October 1, 2017

SB 426 was:

- Passed by the first chamber on March 20, 2017
- Included in NCCI's March 31, 2017 **Legislative Activity Report** (RLA-2017-12)
- Passed by the second chamber on March 28, 2017
- Included in NCCI's April 7, 2017 **Legislative Activity Report** (RLA-2017-13)
- Enacted on April 11, 2017, with an effective date of October 1, 2017

HB 1294/SB 426 amend **section 9-640 Survival of compensation** of the Annotated Labor and Employment Code of Maryland, related to permanent total disability benefits, as follows:

§ 9-640 Survival of compensation

(a) Scope of section.—This section does not apply to compensation paid under Title 10, Subtitle 2 of this article.

(b) In general.—If a covered employee dies from a cause that is not compensable under this title, the right to compensation that is payable under this Part V of this subtitle and unpaid on the date of death survives in accordance with this section to the extent of ~~\$45,000~~ \$65,000, as increased by the cost of living adjustments under § 9-638 of this Part V of this subtitle.

...

HB 1294/SB 426 also include the following clause:

That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any claim arising from events occurring before the effective date of this Act.

HB 1294/SB 426 may result in a negligible increase in overall workers compensation system costs in Maryland.

SB 32 was:

- Passed by the first chamber on January 24, 2017
- Included in NCCI's February 3, 2017 **Legislative Activity Report** (RLA-2017-04)
- Passed by the second chamber on April 5, 2017
- Included in NCCI's April 14, 2017 **Legislative Activity Report** (RLA-2017-14)
- Enacted on April 11, 2017, with an effective date of October 1, 2017

SB 32, in part, amends **sections 12-106. Binders or contracts for temporary insurance** and **19-406. Cancellations by insurer** of the Maryland Insurance Code as follows:

12-106. Binders or contracts for temporary insurance

...

(f) (1) Except as provided in paragraph (2) of this subsection, a notice of cancellation under this section shall:

- (i) be in writing;
- (ii) have an effective date not less than 15 days after mailing;
- (iii) state clearly and specifically the insurer's actual reason for the cancellation; and
- (iv) be sent by a first-class mail tracking method to the named insured's last known address.

(2) A notice of cancellation under this section for nonpayment of premium shall:

- (i) be in writing;
- (ii) have an effective date of not less than 10 days after mailing;
- (iii) state the insurer's intent to cancel for nonpayment of premium; and

(iv) be sent by a first-class mail tracking method to the named insured's last known address.

(3) With respect to a workers' compensation insurance policy or binder, the insurer shall file a copy of the notice of cancellation required under paragraph (1) or (2) of this subsection with the designee of the Workers' Compensation Commission.

...

19-406. Cancellations by insurer

(a) This section does not apply to the cancellation of a policy or binder of workers' compensation insurance by an insurer during the 45-day underwriting period in accordance with § 12-106 of this article.

...

Montana

SB 275 was:

- Passed by the first chamber on February 24, 2017
- Included in NCCI's March 3, 2017 *Legislative Activity Report* (RLA-2017-08)
- Passed by the second chamber on March 28, 2017
- Included in NCCI's April 7, 2017 *Legislative Activity Report* (RLA-2017-13)
- Enacted and effective on April 13, 2017

SB 275 amends section **39-71-2211. Premium rates for construction industry—filing required** of the Montana Code Annotated 2015 as follows:

39-71-2211. Premium rates for construction industry—filing required.

- (1) With respect to each classification of risk in the construction industry under plan No. 2, the advisory organization designated under 33-16-1023 shall file with the commissioner of insurance a method of computing premiums that does not impose a higher insurance premium solely because of an employer's higher rate of wages paid.
- (2) The commissioner shall accept a filing under subsection (1) that includes a reasonable method of recognizing differences in rates of pay. This method must use a credit scale with the starting point set at 1.168 times the state's average weekly wage as reported by the department.
- (3) The advisory organization shall file a revenue neutral plan for new and renewed policies for prompt and orderly transition to a method of computing premiums that is in compliance with the requirements of this section.
- (4) The state compensation insurance fund, plan No. 3, shall ~~adopt~~ use the plan filed by the designated advisory organization or ~~adopt~~ use a credit scale plan that meets the requirements of this section.
- (5) For the purposes of this section, "construction industry" means the construction group of code classifications filed with and approved by the commissioner to be used by the advisory organization to comply with this section.

SB 275 also includes the following clause:

Applicability. [This act] applies to policies issued or renewed on or after July 1, 2017.

BILLS PASSING SECOND CHAMBER

There were no relevant workers compensation-related bills that passed the second chamber within the one-week period ending April 14, 2017.

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bills passed the first chamber within the one-week period ending April 14, 2017.

Alaska

HB 126 adds new *section 23.30.236. Members of the organized militia as employees* to the Alaska Statutes to read:

Sec. 23.30.236. Members of the organized militia as employees.

- (a) A member of the organized militia who has been ordered into active state service by the governor under AS 26.05.070 or ordered into training under AS 26.05.100, and who suffers an injury, disability, or death in the line of duty, is an employee of the state for purposes of this chapter.
- (b) The gross weekly earnings for members of the organized militia are calculated using the methods prescribed under AS 26.05.260(h).

HB 126 also amends *section 26.05.260. Pay and allowances.* as follows:

Sec. 26.05.260. Pay and allowances.

...

(d) A member of the organized militia who, while performing duties under AS 26.05.070 or training under AS 26.05.100, including transit to and from the member's home of record, suffers an injury or disability in the line of duty is entitled to all compensation

and benefits available under AS 23.30 (Alaska Workers' Compensation Act). For a member of the Alaska State Defense Force, compensation and benefits under this subsection are provided as though the member were a state employee. A member of the organized militia who has not been ordered into active state service by the governor under AS 26.05.070 or ordered into training under AS 26.05.100 is not entitled to compensation and benefits under AS 23.30 (Alaska Workers' Compensation Act).

(e) If a member of the organized militia dies as a result of an injury or disability suffered in the line of duty while performing duties under AS 26.05.070 or training under AS 26.05.100, including transit to and from the member's home of record, death benefits shall be paid to the persons in the amounts specified in AS 23.30.215. For a member of the Alaska State Defense Force, the death benefits under this subsection are provided as though the member were a state employee. A person is not entitled to death benefits as specified in AS 23.30.215 for a member of the organized militia who dies as a result of an injury or disability suffered in the line of duty but who had not been ordered into active state service by the governor under AS 26.05.070 or ordered into training under AS 26.05.100.

Oregon

SB 901 amends numerous sections of the Oregon Revised Statutes, including, but not limited to **section 656.027 Who are subject workers** as follows:

656.027 Who are subject workers. All workers are subject to this chapter except those nonsubject workers described in the following subsections:

...

(7)(a) Sole proprietors, except those described in paragraph (b) of this subsection. When labor or services are performed under contract, the sole proprietor must qualify as an independent contractor to be a nonsubject worker under this subsection.

(b) Sole proprietors actively licensed under ORS 671.525 or 701.021. When labor or services are performed under contract for remuneration, notwithstanding ORS 656.005 (30), the sole proprietor must qualify as an independent contractor to be a nonsubject worker under this subsection. Any sole proprietor licensed under ORS 671.525 or 701.021 and involved in activities subject thereto is conclusively presumed to be an independent contractor.

(8) Except as provided in subsection (23) of this section, partners who are not engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto. When labor or services are performed under contract, the partnership must qualify as an independent contractor to be a nonsubject worker under this subsection.

(9) Except as provided in subsection (25) of this section, members, including members who are managers, of limited liability companies, regardless of the nature of the work performed. However, members, including members who are managers, of limited liability companies with more than one member, while engaged in work performed in direct connection with the construction, alteration, repair, improvement, moving or demolition of an improvement on real property or appurtenances thereto, are subject workers. When labor or services are performed under contract, the limited liability company must qualify as an independent contractor to be a nonsubject worker under this subsection.

(10) Except as provided in subsection (24) of this section, corporate officers who are directors of the corporation and who have a substantial ownership interest in the corporation, regardless of the nature of the work performed by such officers, subject to the following limitations:

(a) If the activities of the corporation are conducted on land that receives farm use tax assessment pursuant to ORS chapter 308A, corporate officer includes all individuals identified as directors in the corporate bylaws, regardless of ownership interest, and who are members of the same family, whether related by blood, marriage or adoption.

(b) If the activities of the corporation involve the commercial harvest of timber and all officers of the corporation are members of the same family and are parents, daughters or sons, daughters-in-law or sons-in-law or grandchildren, then all such officers may elect to be nonsubject workers. For all other corporations involving the commercial harvest of timber, the maximum number of exempt corporate officers for the corporation shall be whichever is the greater of the following:

(A) Two corporate officers; or

(B) One corporate officer for each 10 corporate employees.

(c) When labor or services are performed under contract, the corporation must qualify as an independent contractor to be a nonsubject worker under this subsection .

...

(13) (a) A person who:

(A) Has been declared an amateur athlete under the rules of the United States Olympic Committee, ~~or~~ the Canadian Olympic Committee or an equivalent national body governing amateur sport, or who is registered with a recognized national governing body, or its state affiliate, that is empowered to sanction and govern amateur sport competition; and

(B) ~~Who~~ Receives no remuneration for performance of services as an athlete other than board, room, rent, housing, lodging or other reasonable incidental subsistence allowance; ; or

(b) Any amateur sports official who is certified by a recognized Oregon or national certifying authority, which requires or provides liability and accident insurance for such officials. A roster of recognized Oregon and national certifying authorities will be

maintained by the Department of Consumer and Business Services, from lists of certifying organizations submitted by the Oregon School Activities Association and the Oregon Park and Recreation Society.

...

Tennessee

SB 297, as amended, amends *sections 50-6-124. Utilization review system—Pre-admission review—Penalties for rendering excessive or inappropriate services—Legislative intent—Treatment guidelines* and *50-6-204. Medical treatment, attendance and hospitalization—Release of medical records—Reports—Disputes—Reimbursement or payment of expenses—Burial expenses—Physical examinations—Pain management—Impairment ratings* of the Tennessee Code as follows:

50-6-124. Utilization review system—Pre-admission review—Penalties for rendering excessive or inappropriate services—Legislative intent—Treatment guidelines.

...

(j) (1) Except as otherwise provided in subdivision (j)(2), the system of utilization review established by the administrator or provided by an employer shall not apply to: (A) Diagnostic procedures ordered in accordance with the treatment guidelines by the authorized treating physician or chiropractor in the first thirty (30) days after the date of injury; or

(B) Diagnostic studies recommended by the treating physician in the event the initial treatment regimen is nonsurgical, without diagnostic testing, and is not successful in returning the injured worker to employment.

(2) A recommended invasive procedure shall be subject to utilization review at any time.

(3) For purposes of this subsection (j):

(A) “Diagnostic procedures” includes, but is not limited to, routine and specialty radiography, magnetic resonance imaging that is not for low back pain without radiculopathy, a computerized tomography scan, a myelogram, an arthrogram, an ultrasound, and electromyogram and nerve conduction velocity testing; and

(B) “Initial treatment” means the first series of treatments or therapies or first two (2) medication trials ordered by the authorized treating physician in accordance with the adopted treatment guidelines within sixty (60) days of a reported injury.

50-6-204. Medical treatment, attendance and hospitalization—Release of medical records—Reports—Disputes—Reimbursement or payment of expenses—Burial expenses—Physical examinations—Pain management—Impairment ratings.

(a)

...

(3)

...

(B) If three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups **not associated in practice together** are not available in the employee’s community, the employer shall provide a list of three (3) independent reputable physicians, surgeons, chiropractors, or specialty practice groups within a one-hundred-twenty-five (100) mile radius of the employee’s community of residence. **Two (2) of the list of three (3) independent reputable physicians, surgeons, chiropractors, or specialty practice groups must not be associated in practice together.**

...

(c) In case death results from the injury or occupational disease, as defined in § 50-6-102, the employer shall, in addition to the medical services, etc., referred to in subsections (a) and (b), pay the burial expenses of the deceased employee, not exceeding ~~seven thousand five hundred dollars (\$7,500)~~ **ten thousand dollars (\$10,000)**. If the deceased employee leaves no dependents entitled to compensation under this chapter, the employer shall pay to the employee’s estate the additional benefits provided in § 50-6-209(b)(2) and (3), and shall also be liable for the medical and hospital services and burial expenses provided for in this section.

...

Texas

HB 2112 amends various provisions of the Texas Labor Code as follows:

Section 402.066. Recommendations to Legislature.

(a) The commissioner shall consider and recommend to the legislature changes to this subtitle, ~~including any statutory changes required by an evaluation conducted under Section 402.074.~~

...

Section 406.007. Termination of Coverage by Employer; Notice.

(a) An employer who terminates workers’ compensation insurance coverage obtained under this subtitle shall file a written notice with the division ~~by certified mail~~ not later than the 10th day after the date on which the employer notified the insurance carrier to terminate the coverage. The notice must include a statement certifying the date that notice was provided or will be provided to affected employees under Section 406.005.

...

Section 406.008. Cancellation or Nonrenewal of Coverage by Insurance Company; Notice.

(a) An insurance company that cancels a policy of workers' compensation insurance or that does not renew the policy by the anniversary date of the policy shall deliver notice of the cancellation or nonrenewal to the division, and by certified mail or in person to the employer, ~~and the division~~ not later than:

- (1) the 30th day before the date on which the cancellation or nonrenewal takes effect; or
- (2) the 10th day before the date on which the cancellation or nonrenewal takes effect if the insurance company cancels or does not renew because of:

- (A) fraud in obtaining coverage;
- (B) misrepresentation of the amount of payroll for purposes of premium calculation;
- (C) failure to pay a premium when due;
- (D) an increase in the hazard for which the employer seeks coverage that results from an act or omission of the employer and that would produce an increase in the rate, including an increase because of a failure to comply with:
 - (i) reasonable recommendations for loss control; or
 - (ii) recommendations designed to reduce a hazard under the employer's control within a reasonable period; or
- (E) a determination made by the commissioner of insurance that the continuation of the policy would place the insurer in violation of the law or would be hazardous to the interest of subscribers, creditors, or the general public.

...

Section 406.144. Election to Provide Coverage; Agreement.

...

(d) The hiring contractor shall send a copy of an agreement under this section to:

- (1) the hiring contractor's workers' compensation insurance carrier; and
- (2) the division, on the division's request on filing of the agreement with the division.

...

Section 406.145. Joint Agreement.

...

(c) The hiring contractor shall send a copy of a joint agreement signed under this section to:

- (1) the hiring contractor's workers' compensation insurance carrier; and
- (2) the division, on the division's request on filing of the joint agreement with the division.

...

Section 408.150. Vocational Rehabilitation.

(a) The division shall refer an employee to the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ with a recommendation for appropriate services if the division determines that an employee could be materially assisted by vocational rehabilitation or training in returning to employment or returning to employment more nearly approximating the employee's preinjury employment. ~~The division shall also notify insurance carriers of the need for vocational rehabilitation or training services.~~ The insurance carrier may provide vocational rehabilitation or training services through a private provider of vocational rehabilitation services ~~under Section 409.012.~~

(b) An employee who refuses services or refuses to cooperate with services provided under this section by the Texas Workforce Commission ~~Department of Assistive and Rehabilitative Services~~ or a private provider loses entitlement to supplemental income benefits.

Section 409.010. Information Provided to Employee or Legal Beneficiary.

Immediately on receiving notice of an injury or death from any person, the division shall send mail to the employee or legal beneficiary a clear and concise description of:

- (1) the services provided by:
 - (A) the division; and
 - (B) the office of injured employee counsel, including the services of the ombudsman program;
- (2) the division's procedures; and
- (3) the person's rights and responsibilities under this subtitle.

Section 409.011. Information Provided to Employer; Employer's Rights.

(a) Immediately on receiving notice of an injury or death from any person, the division shall send mail to the employer a description of:

- (1) the services provided by the division and the office of injured employee counsel;
- (2) the division's procedures; and
- (3) the employer's rights and responsibilities under this subtitle.

...

Section 409.012. Vocational Rehabilitation Information.

...

- (b) If the division determines that an injured employee would be assisted by vocational rehabilitation, the division shall notify:
 - (1) the injured employee in writing of the services and facilities available through the Texas Workforce Commission Department of Assistive and Rehabilitative Services and private providers of vocational rehabilitation; and
 - (2) the Texas Workforce Commission Department of Assistive and Rehabilitative Services and the affected insurance carrier that the injured employee has been identified as one who could be assisted by vocational rehabilitation.
- (c) The division shall cooperate with the office of injured employee counsel, the Texas Workforce Commission Department of Assistive and Rehabilitative Services, and private providers of vocational rehabilitation in the provision of services and facilities to employees by the Texas Workforce Commission Department of Assistive and Rehabilitative Services.

...

Section 409.013. Plain Language Information; Notification of Injured Employee

...

- (b) On receipt of a report under Section 409.005, the division shall:
 - (1) contact the affected employee; by mail or by telephone and
 - (2) shall provide the information required under Subsection (a) to that employee, together with any other information that may be prepared by the office of injured employee counsel or the division for public dissemination that relates to the employee’s situation, such as information relating to back injuries or occupational diseases.

HB 2112 also repeals the following provisions of the Labor Code as follows:

~~Section 402.074. Strategic Management; Evaluation.~~

~~The commissioner shall implement a strategic management plan that:~~

- ~~(1) requires the division to evaluate and analyze the effectiveness of the division in implementing:

 - ~~(A) the statutory goals adopted under Section 402.021, particularly goals established to encourage the safe and timely return of injured employees to productive work roles; and~~
 - ~~(B) the other standards and requirements adopted under this code, the Insurance Code, and other applicable laws of this state; and~~~~
- ~~(2) modifies the organizational structure and programs of the division as necessary to address shortfalls in the performance of the workers’ compensation system of this state.~~

Section 406.144. Election to Provide Coverage; Agreement.

...

- ~~(c) An agreement under this section shall be filed with the division either by personal delivery or by registered or certified mail and is considered filed on receipt by the division.~~

...

Sections 406.145. Joint Agreement

...

- ~~(b) A joint agreement shall be delivered to the division by personal delivery or registered or certified mail and is considered filed on receipt by the division.~~

...

- ~~(d) The division shall maintain a system for accepting and maintaining the joint agreements.~~

...

~~Section 408.032. Study on Interdisciplinary Pain Rehabilitation Program and Facility Accreditation Requirement.~~

~~The division shall study the issue of required accreditation of interdisciplinary pain rehabilitation programs or interdisciplinary pain rehabilitation treatment facilities that provide services to injured employees and shall report to the legislature regarding any statutory changes that the division considers necessary to require that accreditation.~~

~~Section 408.086. Division Determination of Extended Unemployment or Underemployment.~~

- ~~(a) During the period that impairment income benefits or supplemental income benefits are being paid to an employee, the commissioner shall determine at least annually whether any extended unemployment or underemployment is a direct result of the employee’s impairment.~~
- ~~(b) To make this determination, the commissioner may require periodic reports from the employee and the insurance carrier and, at the insurance carrier’s expense, may require physical or other examinations, vocational assessments, or other tests or diagnoses necessary to perform the commissioner’s duty under this section and Subchapter H.~~

Section 409.012. Vocational Rehabilitation Information.

...
~~(d) A private provider of vocational rehabilitation services may register with the division.~~

In addition, **HB 2112** includes the following clauses:

The change in law made by this Act applies only to a notice, agreement, description, or information required to be sent or provided on or after the effective date of this Act.

This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Vermont

HB 197 amends **section 601. Definitions** of the Vermont Statutes Annotated as follows:

§ 601. Definitions

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

...
(11) "Personal injury by accident arising out of and in the course of employment" includes an injury caused by the willful act of a third person directed against an employee because of that employment.

...
(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) "Firefighter" means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) "Mental health professional" means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed by this State to provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) "Police officer" means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) "Rescue or ambulance worker" means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J)(i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

...
HB 197 also includes the following language:

Emergency personnel post-traumatic stress disorder; study of experience and costs; report

(a) The Commissioner of Labor, in consultation with the Secretary of Administration, the Commissioner of Financial Regulation, the Vermont League of Cities and Towns, and the National Council on Compensation Insurance, shall examine claims for workers' compensation made pursuant to 21 V.S.A. § 601(11)(I) and (J) between July 1, 2017 and January 1, 2020, including:

(1) the number of claims made;

(2) the cost of the workers compensation benefits provided for those claims; and

(3) any changes in administrative and premium costs associated with those claims.

(b) On or before January 15 of each year from 2018 through 2020, the Commissioner shall report to the House Committees on Appropriations, on Commerce and Economic Development, and on Health Care, and the Senate Committees on Appropriations, on Finance, and on Health and Welfare regarding its findings and any recommendations for legislative changes.

HB 197, if enacted in its current form, may result in a significant impact on workers compensation system costs for police officer, firefighter, rescue or ambulance worker classifications in Vermont.

NCCI is unable to quantify the estimated workers compensation system cost impact of establishing a compensability standard for work-related event or stress claims. This provision could potentially increase workers compensation system costs for many classifications, although it may primarily impact classifications with higher exposure to stress-related events and conditions.

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, ID, MT, NV, OR	Peter Burton	610-964-8852
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
IA, MO, NE, OK, SD	Carla Townsend	314-843-4001
Federal Issues	Tim Tucker	202-403-8526

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