



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 includes 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 is included in the first report published each month. This report is issued on a weekly basis throughout the legislative season and provides updates on the content of these bills if and when they progress through the legislative process. This report covers 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 May 4, 2018.

Colorado

HB 1308 was:

- Passed by the first chamber on April 3, 2018
- Included in NCCI's April 13, 2018 **Legislative Activity Report** (RLA-2018-15)
- Passed by the second chamber on April 19, 2018
- Included in NCCI's April 27, 2018 **Legislative Activity Report** (RLA-2018-17)
- Enacted and effective on April 30, 2018

HB 1308 adds new **section 8-41-212** to the Workers' Compensation Act of Colorado as follows:

8-41-212. Exemptions—laws of other state furnish exclusive remedy—definitions.

- (1) An employee who was hired or is regularly employed outside of Colorado by an out-of-state employer and the out-of-state employer of the employee are exempt from Articles 40 to 47 of this Title 8 while the employee is temporarily working for the out-of-state employer within Colorado if:
- (a) The out-of-state employer has furnished coverage pursuant to the workers' compensation laws of the state in which the employee was hired or is regularly employed, which coverage applies to the employee while temporarily working in Colorado; and
- (b) The state in which the employee is furnished coverage:
- (I) Is contiguous to Colorado; and
- (II) Recognizes this section and provides the same exemption from the application of its workers' compensation laws for Colorado employers whose employees are temporarily working in the contiguous state.
- (2) For an out-of-state employee and out-of-state employer to which this section applies, the benefits provided under the workers' compensation laws of the state in which the employee is furnished coverage are the exclusive remedy against the out-of-state employer for any injury, whether resulting in death or not, that the employee incurs while working for the out-of-state employer in Colorado.
- (3) The division may enter into an agreement with any workers' compensation division or similar agency of a contiguous state to promulgate rules consistent with this section to carry out the extraterritorial application of the workers' compensation or similar law of the agreeing state.
- (4) Nothing in this section contravenes the legal obligations of Colorado employers to provide workers' compensation to their employees in compliance with articles 40 to 47 of this title 8.
- (5) As used in this section:
- (a) "Out-of-state employer" means an employer that is domiciled in another state.
- (b) "Temporarily" or "temporarily working" means:
- (i) A period of sustained work that does not exceed six months; or

(ii) Engaging in the interstate movement of goods or commodities.

SB 178 was:

- Passed by the first chamber on March 27, 2018
- Included in NCCI's April 6, 2018 **Legislative Activity Report** (RLA-2018-14)
- Passed by the second chamber on April 19, 2018
- Included in NCCI's April 27, 2018 **Legislative Activity Report** (RLA-2018-17)
- Enacted on May 4, 2018, with a projected effective date of August 8, 2018

SB 178 amends **section 40-11.5-102** of the Colorado Revised Statutes as follows:

40-11.5-102. Lease provisions—definitions—rules.

...

(5) (a) Any lease or contract executed pursuant to this section ~~shall~~ must provide for coverage under workers' compensation or a ~~private an occupational accident~~ insurance policy that provides similar coverage.

(a.5) If an operator of a commercial vehicle, as defined in section 42-4-235 (1)(a)(l)(b), obtains similar coverage pursuant to this subsection (5), then the operator:

(I) Is excluded from the definition of employee for purposes of section 8-40-202 (2);

(II) Shall notify the division of workers' compensation in the department of labor and employment of the election, in a manner determined by the director of the division of workers' compensation by rule; and

(III) Shall, along with the motor carrier and contract carrier, provide proof of the similar coverage upon request to interested parties, including the carrier's workers' compensation insurance provider, the division of workers' compensation, and the division of insurance.

(b) for purposes of this subsection (5), "similar coverage":

(I) Means disability insurance for on and off the job injury, health insurance, and life insurance benefits designed for independent contractors and sole proprietors who reject workers' compensation coverage and elect, pursuant to this subsection (5), coverage providing medical, temporary and permanent disability, death and dismemberment, and survivor benefits that are subject to regulation by the division of insurance in the department of regulatory agencies. The specifications of ~~such~~ the insurance, including ~~the amount of any deductible, shall~~ coverages, exclusions, policy limits, and the amount, if any, of any deductibles or copayments, must be filed with the division of insurance. The specifications must meet or exceed standards set by the division of insurance in the department of regulatory agencies, and such the standards shall must specify that the benefits offered by such the insurance coverage ~~shall must~~ be at least comparable to the benefits offered under the workers' compensation system.

(II) For services performed by operators of commercial vehicles, as defined in section 42-4-235 (1)(a)(l)(b), means insurance benefits defined in subsection (5)(b)(I) of this section. The specifications of the insurance, including minimum thresholds for coverage and the amount, if any, of any deductibles or copayments, must meet or exceed the standards set, by rule, by the division of insurance in the department of regulatory agencies.

(d) Notwithstanding any other law, if an operator of a commercial vehicle, as defined in section 42-4-235 (1)(a)(l)(b), a motor carrier, or a contract carrier obtains similar coverage pursuant to this subsection (5), articles 40 to 47 of title 8 do not apply.

(e) The commissioner of insurance in the division of insurance in the department of regulatory agencies shall promulgate rules establishing the minimum coverages for benefits under an occupational accident policy under this subsection (5).

Georgia

HB 760 was:

- Passed by the first chamber on February 26, 2018
- Included in NCCI's March 9, 2018 **Legislative Activity Report** (RLA-2018-10)
- Amended and passed by the second chamber on March 23, 2018
- Included in NCCI's March 30, 2018 **Legislative Activity Report** (RLA-2018-13)
- Enacted on May 3, 2018, with an effective date of July 1, 2018

HB 760 in part, amends **section 33-24-47. Notice required of termination or nonrenewal, increase in premium rates, or change restricting coverage; failure of insurer to comply** of the Official Code of Georgia Annotated as follows:

§ 33-24-47. Notice required of termination or nonrenewal, increase in premium rates, or change restricting coverage; failure of insurer to comply

...

(b) A notice of termination, including a notice of cancellation or nonrenewal, by the insurer, a notice of an increase in premiums, other than an increase in premiums due to a change in risk or exposure, including a change in experience modification or resulting from an audit of auditable coverages, which exceeds 15 percent of the current policy's premium, ~~or a notice of change in any policy provision which limits or restricts coverage~~ shall be delivered to the insured as provided in subsection (d) of Code Section 33-24-14, in person, or by depositing the notice in the United States mail, to be dispatched by at least first-class mail to the last address of record of the insured, at least 45 days prior to the termination date of such policy; provided, however, that a notice of cancellation

or nonrenewal of a policy of workers' compensation insurance shall be controlled by the provisions of subsection (f) of this Code section. In those instances where an increase in premium exceeds 15 percent, the notice to the insured shall indicate the dollar amount of the increase. The insurer may obtain a receipt provided by the United States Postal Service as evidence of mailing such notice or such other evidence of mailing as prescribed or accepted by the United States Postal Service.

...

(g) An insurer shall provide a written notice of a reduction in coverage to the named insured no less than 45 days prior to the effective date of the proposed reduction in coverage; provided that such notice shall be printed in all capital letters in a separate document entitled 'NOTICE OF REDUCTION IN COVERAGE.' Such notice shall be delivered to the insured as provided in subsection (d) of Code Section 33-24-14, in person, or by depositing the notice in the United States mail, to be dispatched by at least first-class mail to the last address of record of the insured. A reduction in coverage shall mean a change made by the insurer which results in a removal of coverage, diminution in scope or less coverage, or the addition of an exclusion. Reduction in coverage shall not include any change, reduction, or elimination of coverage made at the request of the insured. The correction of typographical or scrivener's errors or the application of mandated legislative changes shall not be considered a reduction in coverage.

Oklahoma

HB 2722 was:

- Passed by the first chamber on March 12, 2018
- Included in NCCI's March 23, 2018 *Legislative Activity Report* (RLA-2018-12)
- Passed by the second chamber on April 24, 2018
- Included in NCCI's May 4, 2018 *Legislative Activity Report* (RLA-2018-18)
- Enacted on May 1, 2018, with an effective date of November 1, 2018

HB 2722 amends *section 85A-2* of the Oklahoma Administrative Workers' Compensation Act, in part, as follows:

§85A-2. Definitions.

As used in the Administrative Workers' Compensation Act:

...

18...

b. The term "employee" shall not include:

...

(2) any person who is employed in agriculture, ranching or horticulture by an employer who had a gross annual payroll in the preceding calendar year of less than One Hundred Thousand Dollars (\$100,000.00) wages for agricultural, ranching or horticultural workers, or any person who is employed in agriculture, ranching or horticulture who is not engaged in operation of motorized machines. This exemption applies to any period of time for which such employment exists, irrespective of whether or not the person is employed in other activities for which the exemption does not apply. If the person is employed for part of a year in exempt activities and for part of a year in nonexempt activities, the employer shall be responsible for providing workers' compensation only for the period of time for which the person is employed in nonexempt activities,

...

HB 2993 was:

- Passed by the first chamber on March 7, 2018
- Included in NCCI's March 16, 2018 *Legislative Activity Report* (RLA-2018-11)
- Passed by the second chamber on April 26, 2018
- Included in NCCI's May 4, 2018 *Legislative Activity Report* (RLA-2018-18)
- Enacted on May 3, 2018, with an effective date of November 1, 2018

HB 2993 amends *sections 85A-97, 85A-98, and 85A-99* of the Oklahoma Administrative Workers' Compensation Act as follows:

§85A-97. Self-insurance Guaranty Fund.

A. The Self-insurance Guaranty Fund shall be for the purpose of continuation of workers' compensation benefits due and unpaid or interrupted due to the inability of a self-insurer to meet its compensation obligations because its financial resources, security deposit, guaranty agreements, surety agreements and excess insurance are either inadequate or not immediately accessible for the payment of benefits. Monies in the fund, including interest, are not subject to appropriation and shall be expended to compensate employees for eligible benefits for a compensable injury under the Administrative Workers' Compensation Act, pay outstanding workers' compensation obligations of the impaired self-insurer, and for all claims for related administrative fees, operating costs of the Self-insurance Guaranty Fund Board, attorney fees, and other costs reasonably incurred by the Board in the performance of its duties.

B. Monies transferred pursuant to Section 99 of this title may be expended by the Board to provide a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title.

C. Expenditures from the fund shall be made on warrants issued by the State Treasurer against claims as prescribed by law. The fund shall be subject to audit in the same manner as state funds and accounts, the cost for which shall be paid for from the fund.

§85A-98. Funds to be transferred to Self-insurance Guaranty Fund.

The Self-insurance Guaranty Fund shall be derived from the following sources:

...

(2)... c. Failure of a self-insurer to pay, or timely pay, an assessment required by this paragraph, or to report payment of the same to the Commission within ten (10) days of payment, shall be grounds for revocation by the Commission of the self-insurer's permit to self-insure in this state, after notice and hearing. A former self-insurer failing to make payments required by this paragraph promptly and correctly, or failing to report payment of the same to the Commission within ten (10) days of payment, shall be subject to administrative penalties as allowed by law, including but not limited to, a fine in the amount of Five Hundred Dollars (\$500.00) or an amount equal to one percent (1%) of the unpaid amount, whichever is greater, to be paid and deposited to the credit of the Workers' Compensation Commission Revolving Fund created in Section ~~28~~ 28.1 of this title. It shall be the duty of the Tax Commission to collect the assessment provided for in this paragraph. The Tax Commission is authorized to bring an action for recovery of any delinquent or unpaid assessments, and may enforce payment of the assessment by proceeding in accordance with Section 79 of this title.

...

e. The Tax Commission shall determine the fund balance as of March 1 and September 1 of each year, and when otherwise requested by the Workers' Compensation Commission, and shall advise the Workers' Compensation Commission in writing within thirty (30) days of each such determination; ~~and~~

3. Any interest accruing on monies paid into the fund; and

4. Monies transferred pursuant to Section 99 of this title.

§85A-99. Impaired self-insurer.

A. On determination by the Workers' Compensation Commission that a self-insurer has become an impaired self-insurer, the Commission shall secure release of the security required by Section 38 of this title and advise the Self-insurance Guaranty Fund Board of the impairment. Claims administration, including processing, investigating and paying valid claims against an impaired self-insurer under the Administrative Workers' Compensation Act, may include payment by the surety that issued the surety bond or be under a contract between the Commission and an insurance carrier, appropriate state governmental entity or an approved service organization, as approved by the Commission.

B. Excess proceeds from the security remaining after each claim for benefits of an impaired self-insurer has been paid, settled or lapsed, and associated costs of administration of such claim have been paid, shall be transferred to the Self-insurance Guaranty Fund and may be used as a credit against the assessment required to be paid by each private self-insurer and group self-insurer association pursuant to Section 98 of this title, as determined by the Self-insurance Guaranty Fund Board.

SB 1411 was:

- Passed by the first chamber on March 7, 2018
- Included in NCCI's March 16, 2018 **Legislative Activity Report** (RLA-2018-11)
- Passed by the second chamber on April 26, 2018
- Included in NCCI's May 4, 2018 **Legislative Activity Report** (RLA-2018-18)
- Enacted on May 3, 2018, with an effective date of August 1, 2018

SB 1411 amends **section 40-418** of the Oklahoma Labor Code as follows:

§40-418. Payments to Commission—Refunds—Collection of payments—Disposition of funds.

...

(5) ~~The~~ Except as otherwise provided in paragraph 7 of this section, the Oklahoma Tax Commission shall, monthly, as the same are collected, pay to the State Treasurer of this state, to the credit of the Special Occupational Health and Safety Fund, all monies collected under the provisions of this section. Monies shall be paid out of said Fund exclusively for the operation and administration of the Oklahoma Occupational Health and Safety Standards Act and for other necessary expenses of the Department of Labor pursuant to appropriations by the Oklahoma Legislature.

...

(7) In no event shall the total fiscal year amount paid to the credit of the Special Occupational Health and Safety Fund pursuant to this section exceed the 3-year average of the total fiscal year amounts apportioned fiscal years 2015, 2016 and 2017. Any amount in excess of the 3-year average shall be placed to the credit of the General Revenue Fund.

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bills passed the second chamber within the one-week period ending May 4, 2018.

Louisiana

HB 609 was:

- Passed by the first chamber on April 5, 2018
- Included in NCCI's April 13, 2018 *Legislative Activity Report* (RLA-2018-15)
- Passed by the second chamber on May 1, 2018

HB 609 adds new **section RS 22: 2013.1** to the Louisiana Insurance Code to read:

§ 2013.1. Administration of large deductible policies and insured collateral

A. This Section shall apply to workers' compensation large deductible policies issued by an insurer subject to delinquency proceedings pursuant to this Chapter; however, this Section shall not apply to first party claims or to claims funded by a guaranty association net of the deductible unless Subsection C of this Section applies. Large deductible policies shall be administered in accordance with their terms, except to the extent the terms conflict with this Section.

B. For purposes of this Section, the following terms have the following meanings:

(1) "Collateral" means any cash, letters of credit, surety bond, or any other form of security posted by the insured, or by a captive insurer or reinsurer, to secure the insured's obligation under a large deductible policy to pay deductible claims or to reimburse the insurer for deductible claim payments. Collateral may also secure an insured's obligation to reimburse or pay to the insurer as may be required for other secured obligations.

(2) "Commercially reasonable" means to act in good faith using prevailing industry practices and making all reasonable efforts considering the facts and circumstances of the matter.

(3) "Deductible claim" means any claim, including a claim for loss and defense and cost containment expense, unless the expenses are excluded, under a large deductible policy that is within the deductible.

(4)(a) "Large deductible policy" means any of the following:

(i) Any combination of one or more workers' compensation policies and endorsements issued to an insured, and contracts or security agreements entered into between an insured and the insurer in which the insured has agreed with the insurer to do either of the following:

(aa) Pay directly the initial portion of any claim under the policy up to a specified dollar amount, or the expenses related to any claim.

(bb) Reimburse the insurer for its payment of any claim or related expenses under the policy up to the specified dollar amount of the deductible.

(ii) Any policy that contains an aggregate limit on the insured's liability for all deductible claims in addition to a per claim deductible limit.

(iii) Any policy that shifts a portion of the ultimate financial responsibility to pay claims from the insurer to the insured, even though the obligation to initially pay claims may remain with the insurer.

(iv) Any policy with a deductible of one hundred thousand dollars or greater.

(b) "Large deductible policy" shall not include any of the following:

(i) Policies, endorsements, or agreements that provide for the initial portion of any covered claim to be self-insured and further that the insurer shall have no payment obligation within the self-insured retention.

(ii) Policies that provide for retrospectively rated premium payments by the insured or reinsurance arrangements or agreements, except to the extent the arrangements or agreements assume, secure, or pay the policyholder's large deductible obligations.

(5) "Other secured obligations" means obligations of an insured to an insurer other than those under a large deductible policy, including but not limited to those under a reinsurance agreement or other agreement involving retrospective premium obligations, the performance of which is secured by collateral that also secures an insured's obligations under a large deductible policy.

C. Unless otherwise agreed by the responsible guaranty association, all large deductible claims, which are also covered claims as defined by the applicable guaranty association law, including those that may have been funded by an insured before liquidation, shall be turned over to the guaranty association for handling. To the extent the insured funds or pays the deductible claim, pursuant to an agreement by the guaranty fund or otherwise, the insured's funding or payment of a deductible claim will extinguish the obligations, if any, of the receiver or any guaranty association to pay the claim. No charge of any kind shall be made against the receiver or a guaranty association on the basis of an insured's funding or payment of a deductible claim.

D.(1) To the extent a guaranty association pays any deductible claim for which the insurer would have been entitled to reimbursement from the insured, a guaranty association shall be entitled to the full amount of the reimbursement, and available collateral as provided for in this Section to the extent necessary to reimburse the guaranty association. Reimbursements paid to the guaranty association pursuant to this Subsection shall not be treated as distributions pursuant to R.S. 22:2025 or as early access payments pursuant to R.S. 22:2008(C), 2034, and 2037.

(2) To the extent that a guaranty association pays a deductible claim that is not reimbursed either from collateral or by insured payments, or incurs expenses in connection with large deductible policies that are not reimbursed pursuant to this Section, the guaranty association shall be entitled to assert a claim for those amounts in the delinquency proceeding.

(3) Nothing in this Subsection shall limit any rights of the receiver or a guaranty association that may otherwise exist pursuant to applicable law to obtain reimbursement from insureds for claims payments made by the guaranty association under policies of the insurer or for the guaranty association's related expenses, including but not limited to those provided for in R.S. 22:2061.1, or existing under similar laws of other states.

E.(1) The receiver shall collect reimbursements owed for deductible claims as provided for in this Section, and shall take all commercially reasonable actions to collect the reimbursements. The receiver shall promptly bill insureds for reimbursement of deductible claims that are any of the following:

(a) Paid by the insurer prior to the commencement of delinquency proceedings.

(b) Paid by a guaranty association upon receipt by the receiver of notice from a guaranty association of reimbursable payments.

(c) Paid or allowed by the receiver.

(2) If the insured does not make payment within the time specified in the large deductible policy, or within sixty days after the date of billing if no time is specified, the receiver shall take all commercially reasonable actions to collect any reimbursements owed.

(3) Neither the insolvency of the insurer, nor its inability to perform any of its obligations under the large deductible policy, shall be a defense to the insured's reimbursement obligation under the large deductible policy.

(4) Except for gross negligence, an allegation of improper handling or payment of a deductible claim by the insurer, the receiver, or any guaranty association shall not be a defense to the insured's reimbursement obligations under the large deductible policy.

F.(1) Subject to the provisions of this Subsection, the receiver shall use collateral, when available, to secure the insured's obligation to fund or reimburse deductible claims or other secured obligations or other payment obligations. A guaranty association shall be entitled to collateral as provided for in this Subsection to the extent needed to reimburse a guaranty association for the payment of a deductible claim. Any distributions made to a guaranty association pursuant to this Subsection shall not be treated as distributions pursuant to R.S. 22:2025 or as early access payments pursuant to R.S. 22:2008(C), 2034, and 2037.

(2) All claims against the collateral shall be paid in the order received and no claim of the receiver, including those described in this Subsection, shall supersede any other claim against the collateral as provided for in Paragraph (4) of this Subsection.

(3) The receiver shall draw down collateral to the extent necessary in the event that the insured fails to do any of the following:

(a) Perform its funding or payment obligations under any large deductible policy.

(b) Pay deductible claim reimbursements within the time specified in the large deductible policy or within sixty days after the date of the billing if no time is specified.

(c) Pay amounts due to the estate for preliquidation obligations.

(d) Timely fund any other secured obligation.

(e) Timely pay expenses.

(4) Claims that are validly asserted against the collateral shall be satisfied in the order in which the claims are received by the receiver.

(5) Excess collateral may be returned to the insured as determined by the receiver after a periodic review of claims paid, outstanding case reserves, and a factor for incurred but not reported claims.

G. The receiver may deduct from the collateral or from the deductible reimbursements reasonable and actual expenses incurred in connection with the collection of the collateral and deductible reimbursements.

H. This Section shall not limit or adversely affect any rights or powers a guaranty association may have pursuant to applicable state law to obtain reimbursement from certain classes of policyholders for claims payments made by the guaranty association under policies of the insolvent insurer, or for related expenses the guaranty association incurs.

New Hampshire

HB 407 was:

- Passed by the first chamber on March 21, 2018
- Included in NCCI's March 30, 2018 **Legislative Activity Report** (RLA-2018-13)
- Passed by the second chamber on May 3, 2018

HB 407 amends **sections 281-A:2** and **281-A:23** of the New Hampshire Workers' Compensation Law as follows:

281-A:2 Definitions.

Any word or phrase defined in this section shall have the same meaning throughout RSA 281-A, unless the context clearly requires otherwise:

...

I-aa. "Airborne disease" means pathogenic microorganisms that may be discharged through respiratory secretions and can cause disease in humans through inhalation or contact with a mucous membrane. In this chapter these are defined as pertussis, meningococcal disease, and tuberculosis.

...

I-d. "Bloodborne disease" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, hepatitis B virus (HBV), hepatitis C virus, and human immunodeficiency virus (HIV).
I-e. "Critical exposure" means contact of an employee's ruptured or broken skin or mucous membrane with a person's blood or body fluids, other than tears, saliva, or perspiration, unless these are visibly contaminated with blood, of a magnitude that can result in transmission of bloodborne disease.

...

V-c. "Emergency response/public safety worker" means call, volunteer, or regular firefighters; law enforcement officers certified under RSA 106-L; certified county corrections officers; and rescue or ambulance workers including ambulance service, emergency medical personnel, first responder service, and volunteer personnel.

...

XIV-a. "Post-exposure prophylaxis" means preventive medical treatment started after an identified critical exposure or unprotected exposure in order to prevent infection and the development of disease, in accordance with standards promulgated by the Centers for Disease Control and Prevention, United States Department of Health and Human Services.

XIV-b. "Unprotected exposure" includes instances of direct mouth-to-mouth resuscitation or the commingling of blood or other potentially infectious material of a source individual and an emergency response/public safety worker which is capable of transmitting a bloodborne or airborne disease.

XIV-c. "Rehabilitation provider" as used in this chapter includes any person certified as a vocational rehabilitation provider under RSA 281-A:68 or RSA 281-A:69 and who operates for the purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services which are provided under competent professional supervision.

...

281-A:23 Medical, Hospital, and Remedial Care.—

...

VI. An employer subject to this chapter, or the employer's insurance carrier, may furnish or cause to be furnished, testing for the presence of a bloodborne disease when a critical exposure that arises out of and in the course of employment occurs. Such testing shall be provided without prejudice as to the issue of the causal relationship of any subsequently diagnosed bloodborne disease to the employee's work and without prejudice to the compensability of the bloodborne disease as an occupational disease or an accidental injury for the purposes of RSA 281-A. Notwithstanding the foregoing, any costs for testing associated with a testing order issued pursuant to RSA 141-G:11 shall be paid for by the employer's insurance carrier or third-party administrator. Such payment shall be provided without prejudice as to the issue of the causal relationship of any subsequently diagnosed disease or injury.

VI-a. All expenses associated with the medical evaluation and recommended post-exposure prophylaxis treatment for emergency response/public safety workers shall be paid by the employer's insurance carrier or third-party administrator. Such medical evaluation and prophylaxis treatment shall be provided without prejudice as to the issue of the causal relationship of any subsequently diagnosed bloodborne disease or airborne disease to the emergency response/public safety worker's work and without prejudice to the compensability of the bloodborne disease or airborne disease as an occupational disease or an accidental injury for the purposes of this chapter.

...

*NCCI analysis estimates that **HB 407**, if enacted in its current form, may result in a minimal increase in overall workers compensation costs in New Hampshire. Any cost impact of these changes, if enacted, would be reflected in the analysis of future claims experience contained in subsequent NCCI loss cost filings in New Hampshire.*

HB 1740 was:

- Passed by the first chamber on February 22, 2018
- Included in NCCI's March 2, 2018 **Legislative Activity Report** (RLA-2018-09)
- Passed by the second chamber on May 2, 2018

HB 1740 amends **sections 141-G:15 Costs**, and **141-G:19 Rules** of the New Hampshire Public Health Code as follows:

141-G:15 Costs.—Subject to rules adopted by the commissioner under RSA 141-G:19, an applicant's workers' compensation insurance carrier shall be responsible for paying the costs relating to a testing order. ~~Subject to rules adopted by the commissioner under RSA 141-G:19, the private health or automobile insurance of an applicant who does not have access to workers' compensation insurance which would cover medication for prophylaxis against potential bloodborne pathogens shall be~~ responsible for paying the costs relating to a testing order of the test, including charges of the health care facility taking the blood sample and the charges of the laboratory for the analysis of the sample. An applicant without insurance coverage may request testing under this subdivision, however, he or she shall be responsible for paying for the testing order and may be required to pay for testing in advance.

141-G:19 Rules.—

...

II. The commissioner shall adopt rules under RSA 541-A, relative to:

...

(k) Circumstances in which workers' compensation insurance, ~~and the government, and private health or automobile insurance~~ shall be responsible for paying the costs referred to in RSA 141-G:15.

...

SB 541 was:

- Passed by the first chamber on March 22, 2018
- Included in NCCI's March 30, 2018 **Legislative Activity Report** (RLA-2018-13)
- Amended and passed by the second chamber on May 2, 2018

SB 541 amends **sections 281-A:17** of the New Hampshire Statutes to read:

281-A:17 Firefighter and Heart, Lung, or Cancer Disease.—

...

II. Notwithstanding the provisions of RSA 281-A:2, XI and XIII, 16 and 27, there shall exist a prima facie presumption that cancer disease in a firefighter, whether a regular, call, volunteer, or retired member of a fire department, is occupationally related. In order to receive this occupational cancer disability benefit, the type of cancer involved must be a type which may be caused by exposure to heat, radiation, or a known ~~or suspected~~ carcinogen, as defined by the International Agency for Research on Cancer. However:

(a) A call or volunteer firefighter who has been a firefighter for 5 years shall have the benefit of this prima facie presumption ~~only if there is on record reasonable~~ as follows:

(1) If a fire department follows the medical examination as outlined by the National Fire Protection Association standard 1582, the firefighter shall provide this report as evidence that such the firefighter was free of such disease at the beginning of his or her employment. It shall be the duty of the and shall guarantee that he or she has lived a tobacco free life. The employer of a call or volunteer firefighters to firefighter shall provide the required reasonable medical evidence. If the employer fails to do so, the call or volunteer firefighter shall to the firefighter to present as part of his or her claim.

(2) If the fire department does not follow the medical examination standard, the firefighter shall guarantee that he or she has lived a tobacco free life, has been a firefighter for 5 years and shall be required to present after action reports filed after fire incidents which demonstrate exposure to the known carcinogens as part of the claim, but shall not have the benefit of the prima facie presumption regardless of the absence of said reasonable medical evidence.

(b) A retired firefighter who has been retired between 6 and 20 years who guarantees that he or she has lived a tobacco free life and who is receiving a pension, shall be eligible for medical payments only under this section. If a new claim is being filed, the firefighter shall be responsible for filing applicable data and after action reports if no physical report can be provided. A retired firefighter who agrees to submit to any physical examination requested by his the employing city, town, or precinct shall have the benefit of the prima facie presumption for a period of 20 years from the effective date of such the firefighter's retirement during which time the firefighter shall be eligible to have his or her medical expenses paid for this period

BILLS PASSING FIRST CHAMBER

The following workers compensation-related bill passed the first chamber within the one-week period ending May 4, 2018.

Missouri

HB 2438 repeals and replaces **section 287.090** of the Missouri Workers' Compensation Law, as follows:

287.090. Exempt employers and occupations—election to accept—withdrawal—notification required of insurance companies.

1. This chapter shall not apply to:

...

(4) Except as provided in section 287.243, volunteers of a tax-exempt organization which operates under the standards of Section 501(c)(3) or Section 501(c)(19) of the federal Internal Revenue Code, where such volunteers are not paid wages, but provide services purely on a charitable and voluntary basis, including members of the board of directors of such organization;

...

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
IN, NC, SC, TN	Amy Quinn	803-356-0851
HI, NV, UT	Brett Barratt	801-401-6464
MO, NE, OK, SD	Carla Townsend	314-843-4001
AZ, IA, KS, KY	Clarissa Preston	561-945-4517
DC, MD, NM, VA, WV	David Benedict	804-380-3005
CO, FL	Dawn Ingham	561-893-3165
CT, ME, NH, RI	Justin Moulton	860-969-7903
VT	Laura Backus Hall	802-454-1800
AL, GA, LA, MS	Laura Hart Bryan	225-618-8168
AR, IL, TX	Terri Robinson	501-333-2835
Federal Issues	Tim Tucker	202-403-8526
AK, ID, MT, OR	Todd Johnson	503-892-8919

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