



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 June 21, 2019.

#### Connecticut

**SB 164** was:

- Passed by the first chamber on May 30, 2019
- Passed by the second chamber on May 31, 2019
- Included in NCCI's June 7, 2019 **Legislative Activity Report** (RLA-2019-21)
- Enacted on June 18, 2019, with effective dates of July 1, 2019, for **sections 1, 2, 3, and 11**; October 1, 2019, for **section 4**; and June 30, 2019, for **section 12** of the bill

**SB 164**, in part, amends **sections 31-275** and **31-294** of the Connecticut Workers' Compensation Act and adds new sections to be codified in the Connecticut General Statutes including but not limited to the following:

#### **Section 1.**

**Sec. 31-275. Definitions.** As used in this chapter, unless the context otherwise provides:

...

(16) (B) "Personal injury" or "injury" shall not be construed to include:

...

(ii) A mental or emotional impairment, unless such impairment (I) arises from a physical injury or occupational disease, (II) in the case of a police officer of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police department or a municipal constabulary, arises from such police officer's use of deadly force or subsection to deadly force in the line of duty, regardless of whether such police officer is physically injured, provided such police officer is the subject of an attempt by another person to cause such police officer serious physical injury or death through the use of deadly force, and such police officer reasonably believes such police officer to be the subject of such an attempt, or (III) in the case of a police officer, parole officer or firefighter, is diagnosed as a diagnosis of post-traumatic stress disorder by a licensed and board certified mental health professional, determined by such professional to be originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty and not subject to any other exclusion in this section as defined in section 2 of this act that meets all the requirements of section 2 of this act. As used in this clause, "police officer" means a member of the Division of State Police within the Department of Emergency Services and Public Protection, an organized local police department or a municipal constabulary, "firefighter" means a uniformed member of a municipal paid or volunteer fire department, and "in the line of duty" means any action that a police officer or firefighter is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the police officer or firefighter is compensated by the public entity such officer serves;

...

## **Section 2.**

(1) "Firefighter" has the same meaning as provided in section 7-313g of the general statutes;

(2) "In the line of duty" means any action that a police officer, parole officer or firefighter is obligated or authorized by law, rule, regulation or written condition of employment service to perform, or for which the officer or firefighter is compensated by the public entity such officer or firefighter serves, except that, in the case of a volunteer firefighter, such action or service constitutes fire duties, as defined in subsection (b) of section 7-314b of the general statutes;

(3) "Mental health professional" means a board-certified psychiatrist or a psychologist licensed pursuant to chapter 383 of the general statutes, who has experience diagnosing and treating post-traumatic stress disorder;

(4) "Parole officer" means an employee of the Department of Correction who supervises inmates in the community after their release from prison on parole or under another prison release program;

(5) "Police officer" has the same meaning as provided in section 7-294a of the general statutes, except that "police officer" does not include an officer of a law enforcement unit of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut;

(6) "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder as specified in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders"; and

(7) "Qualifying event" means an event occurring in the line of duty on or after July 1, 2019, in which a police officer, parole officer or firefighter:

(A) Views a deceased minor;

(B) Witnesses the death of a person or an incident involving the death of a person;

(C) Witnesses an injury to a person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause;

(D) Has physical contact with and treats an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause;

(E) Carries an injured person who subsequently dies before or upon admission at a hospital as a result of the injury and not as a result of any other intervening cause; or

(F) Witnesses a traumatic physical injury that results in the loss of a vital body part or a vital body function that results in permanent disfigurement of the victim.

(b) A diagnosis of post-traumatic stress disorder is compensable as a personal injury as described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275 of the general statutes, as amended by this act, if a mental health professional examines a police officer, parole officer or firefighter and diagnoses the officer or firefighter with post-traumatic stress disorder as a direct result of a qualifying event, provided (1) the post-traumatic stress disorder resulted from the officer or firefighter acting in the line of duty and, in the case of a firefighter, such firefighter complied with Federal Occupational Safety and Health Act standards adopted pursuant to 29 CFR 1910.134 and 29 CFR 1910.156, (2) a qualifying event was a substantial factor in causing the disorder, (3) such qualifying event, and not another event or source of stress, was the primary cause of the post-traumatic stress disorder, and (4) the post-traumatic stress disorder did not result from any disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action of the officer or firefighter. Any such mental health professional shall comply with any workers' compensation guidelines for approved medical providers, including, but not limited to, guidelines on release of past or contemporaneous medical records.

(c) Whenever liability to pay compensation is contested by the employer, the employer shall file with the commissioner, on or before the twenty-eighth day after the employer has received a written notice of claim, a notice in accordance with a form prescribed by the chairperson of the Workers' Compensation Commission stating that the right to compensation is contested, the name of the claimant, the name of the employer, the date of the alleged injury and the specific grounds on which the right to compensation is contested. The employer shall send a copy of the notice to the employee in accordance with section 31-321 of the general statutes. If the employer or the employer's legal representative fails to file the notice contesting liability on or before the twenty-eighth day after receiving the written notice of claim, the employer shall commence payment of compensation for such injury on or before the twenty-eighth day after receiving the written notice of claim, but the employer may contest the employee's right to receive compensation on any grounds or the extent of the employee's disability within one hundred eighty days from the receipt of the written notice of claim and any benefits paid during the one hundred eighty days shall be considered payments without prejudice, provided the employer shall not be required to commence payment of compensation when the written notice of claim has not been properly served in accordance with section 31-321 of the general statutes or when the written notice of claim fails to include a warning that the employer (1) if the employer has commenced payment for the alleged injury on or before the twenty-eighth day after receiving a written notice of claim, shall be precluded from contesting liability unless a notice contesting liability is filed within one hundred eighty days from the receipt of the written notice of claim, and (2) shall be conclusively presumed to have accepted the compensability of the alleged injury unless the employer either files a notice contesting liability on or before the twenty-eighth day after receiving a written notice of claim or commences payment for the alleged injury on or before such twenty-eighth day. An employer shall be entitled, if the employer prevails, to reimbursement from the claimant of any compensation paid by the employer on and after the date the commissioner receives written notice from the employer or the employer's legal representative, in accordance with the form prescribed by the chairperson of the Workers'

Compensation Commission, stating that the right to compensation is contested. Notwithstanding the provisions of this subsection, an employer who fails to contest liability for an alleged injury on or before the twenty-eighth day after receiving a written notice of claim and who fails to commence payment for the alleged injury on or before such twenty-eighth day, shall be conclusively presumed to have accepted the compensability of the alleged injury. If an employer has opted to post an address of where notice of a claim for compensation by an employee shall be sent, as described in subsection (a) of section 31-294c of the general statutes, the twenty-eight-day period set forth in this subsection shall begin on the date when such employer receives written notice of a claim for compensation at such posted address.

(d) Notwithstanding any provision of chapter 568 of the general statutes, workers' compensation benefits for any police officer, parole officer or firefighter for a personal injury described in subparagraph (B)(ii)(III) of subdivision (16) of section 31-275 of the general statutes, as amended by this act, shall (1) include any combination of medical treatment prescribed by a board-certified psychiatrist or a licensed psychologist, temporary total incapacity benefits under section 31-307 of the general statutes and temporary partial incapacity benefits under subsection (a) of section 31-308 of the general statutes, and (2) be provided for a maximum of fifty-two weeks from the date of diagnosis. No medical treatment, temporary total incapacity benefits under section 31-307 of the general statutes or temporary partial incapacity benefits under subsection (a) of section 31-308 of the general statutes shall be awarded beyond four years from the date of the qualifying event that formed the basis for the personal injury. The weekly benefits received by an officer or a firefighter pursuant to section 31-307 of the general statutes or subsection (a) of section 31-308 of the general statutes, when combined with other benefits including, but not limited to, contributory and noncontributory retirement benefits, Social Security benefits, benefits under a long-term or short-term disability plan, but not including payments for medical care, shall not exceed the average weekly wage paid to such officer or firefighter. An officer or firefighter receiving benefits pursuant to this subsection shall not be entitled to benefits pursuant to subsection (b) of section 31-308 of the general statutes or section 31-308a of the general statutes.

### **Section 3.**

#### **Sec. 31-294h. Benefits for police officers and firefighters suffering mental or emotional impairment.**

Notwithstanding any provision of this chapter, workers' compensation benefits for any ~~(1)~~ police officer, as defined described in subparagraph ~~(B)(iii)~~ (B)(ii)(II) of subdivision (16) of section 31-275, as amended by this act, who suffers a mental or emotional impairment arising from such police officer's use of deadly force or subsection to deadly force in the line of duty, ~~or (2) firefighter, as defined in subparagraph (B)(ii) of subdivision (16) of section 31-275, who suffers a mental or emotional impairment diagnosed as post-traumatic stress disorder originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty,~~ shall be limited to treatment by a psychologist or a psychiatrist who is on the approved list of practicing physicians established by the ~~chairman~~ chairperson of the Workers' Compensation Commission pursuant to section 31-280.

### **Section 4.**

(a) No law enforcement unit, as defined in section 7-294a of the general statutes, shall discharge, discipline, discriminate against or otherwise penalize a police officer, as defined in section 7-294a of the general statutes, who is employed by such law enforcement unit solely because the police officer seeks or receives mental health care services or surrenders his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties to such law enforcement unit during the time the police officer receives mental health care services. The provisions of this subsection shall not be applicable to a police officer who (1) seeks or receives mental health care services to avoid disciplinary action by such law enforcement unit, or (2) refuses to submit himself or herself to an examination as provided in subsection (b) of this section.

(b) Prior to returning to a police officer his or her surrendered firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties, such law enforcement unit shall request the police officer to submit himself or herself to an examination by a mental health professional, as defined in section 2 of this act. The examination shall be performed to determine whether the police officer is ready to report for official duty and shall be paid for by such law enforcement unit.

(c) No civil action may be brought against a law enforcement unit for damages arising from an act or omission of a police officer employed by the unit with respect to the officer's use of his or her personal firearm, if (1) the officer seeks or receives mental health care services and surrenders to such unit his or her firearm, ammunition or electronic defense weapon used in the performance of the police officer's official duties, and (2) such act or omission occurs during the time period the officer has surrendered his or her firearm, ammunition or electronic defense weapon or within six months of the date of surrendering his or her firearm, ammunition or electronic defense weapon, whichever is longer.

### **Section 11.**

Not later than February 1, 2020, the joint standing committee of the General Assembly having cognizance of matters relating to labor and public employees shall complete an examination of the feasibility of expanding the availability of benefits for post-traumatic stress disorder pursuant to section 2 of this act to emergency medical services personnel, as defined in section 20-206jj of the general statutes, and Department of Correction employees who are not otherwise eligible for benefits pursuant to section 2 of this act. In conducting such examination the committee shall consult with representatives of the Workers' Compensation Commission, workers' compensation claimants, employers, insurers and municipalities and may consult with other individuals the

committee deems appropriate. If the committee determines it is feasible to expand the benefits available under section 2 of this act during the next legislative session, said committee shall originate a bill making emergency medical services personnel and Department of Correction employees eligible for such benefits based on the criteria described in section 2 of this act and based on any qualifying event, as defined in section 2 of this act, occurring on or after July 1, 2019.

**SB 164** also includes the following language:

**Section 12.**

Section 2 of substitute senate bill 921 of the current session is repealed.

## Florida

**HB 301** was:

- Passed by the first chamber on April 11, 2019
- Included in NCCI's April 19, 2019 *Legislative Activity Report* (RLA-2019-14)
- Passed by the second chamber on May 3, 2019
- Included in NCCI's May 10, 2019 *Legislative Activity Report* (RLA-2019-17)
- Enacted on June 18, 2019, with an effective date of July 1, 2019, for **section 440.381**

**HB 301**, in part, amends **section 440.381** of the Florida Workers' Compensation Law to read:  
**440.381 Application for coverage; reporting payroll; payroll audit procedures; penalties.—**

...

(2) Submission of an application that contains false, misleading, or incomplete information provided with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the ~~third~~ second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a statement that the filing of an application containing false, misleading, or incomplete information provided with the purpose of avoiding or reducing the amount of premiums for workers' compensation coverage is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The application must contain a sworn statement by the employer attesting to the accuracy of the information submitted and acknowledging the provisions of former s. 440.37(4). The application must contain a sworn statement by the agent attesting that the agent explained to the employer or officer the classification codes that are used for premium calculations. The sworn statements by the employer and the agent are not required to be notarized.

...

## Maine

**LD 756** was:

- Passed by the first and second chamber on June 14, 2019
- Included in NCCI's June 21, 2019 *Legislative Activity Report* (RLA-2019-23)
- Enacted on June 17, 2019, with an effective date of September 19, 2019

**LD 756** amends **sections 102, 152, 205, 211, 212, 213, 215, 221, 301, and 325** of the Maine Workers' Compensation Act of 1992 to read:

**§102. Definitions**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

...

**4. Average weekly wages or average weekly wages, earnings or salary.** The term "average weekly wages" or "average weekly wages, earnings or salary" is defined as follows.

...

H. "Average weekly wages, earnings or salary" does not include any fringe or other benefits paid by the employer that continue during the disability. Any fringe or other benefit paid by the employer that does not continue during the disability must be included for purposes of determining an employee's average weekly wage to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of the state average weekly wage at the time of injury. The limitation on including discontinued fringe or other benefits only to the extent that such inclusion does not result in a weekly benefit amount greater than 2/3 of the state average weekly wage at the time of injury does not apply if the injury results in the employee's death. For injuries occurring on or after January 1, 2020, any fringe or other benefit paid by the employer that does not continue during the disability must be included for purposes of determining an employee's average weekly wage to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of 125% of the state average weekly wage at the time of injury. The limitation on including discontinued fringe or other benefits only to the extent that such inclusion does not result in a weekly benefit amount greater than 2/3 of 125% of the state average weekly wage at the time of injury does not apply if the injury results in the employee's death.

## **§152. Authority of board; administration**

...

**5. Employment of and contracts with administrative law judges and mediators.** The board shall obtain the services of persons qualified by background and training to serve as administrative law judges, who are authorized to take action and enter orders consistent with this Act in all cases assigned to them by the board, and mediators. Beginning January 1, 2020, except for the reappointment of administrative law judges appointed prior to that date, the board may not contract for the services of or employ administrative law judges without a vote supported by 5 of the 7 members of the board notwithstanding section 151, subsection 5. In the exercise of its discretion, the board may obtain the services of administrative law judges and mediators by either of the 2 following methods:

...

## **§205. Benefit payment**

...

**2. Time for payment.** The Unless otherwise provided in this subsection, the first payment of compensation for incapacity under section 212 or 213 is due and payable within 14 days after the employer has notice or knowledge of the injury or death, on which date all compensation then accrued must be paid. Subsequent incapacity payments must be made weekly and in a timely fashion. Every insurance carrier, self-insured and group self-insurer shall keep a record of all payments made under this Act and of the time and manner of making the payments and shall furnish reports, based upon these records, to the board as it may reasonably require.

A. There is no penalty for a failure to make a timely payment under this section if the first payment cannot be paid within 14 days due to an act of God, to a mistake of fact or to unavoidable circumstances. An employer's failure to timely report an injury for which proper notice was given is not an excuse for the insurer.

B. If the end of the 14-day period the employer has not filed a notice of controversy, the employer shall begin payments as required by this subsection.

C. An employer may cease payments as required under this subsection and file a notice of controversy with the board no later than 45 days after the employer has notice or knowledge of the injury or death. Payments may be made without prejudice under this paragraph and, if so made, do not constitute a compensation payment scheme. If the employer does not file a notice of controversy prior to the expiration of the 45-day period, payments may be discontinued or reduced only in accordance with subsection 9, paragraph B, subparagraph (1) unless the failure to file a notice of controversy within 45 days is due to an act of God.

D. The penalty for the failure to make timely payment under this subsection is limited to the penalty established in subsection 3, and further consequences for the failure to make timely payment under this subsection are not a subject for rulemaking.

...

## **§211. Maximum benefit levels**

Effective January 1, 1993, the maximum weekly benefit payable under section 212, 213 or 215 is \$441 or 90% of state average weekly wage, whichever is higher. Beginning on July 1, 1994, the maximum benefit level is \$441 or 90% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the Department of Labor, whichever is higher. If the injured employee's date of injury is on or after January 1, 2013, the maximum benefit level is \$441 or 100% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the Department of Labor, whichever is higher. If the injured employee's date of injury is on or after January 1, 2020, the maximum benefit level is \$441 or 125% of the state average weekly wage as adjusted annually utilizing the state average weekly wage as determined by the Department of Labor, whichever is higher.

## **§212. Compensation for total incapacity**

...

**4. Annual adjustment.** For dates of injury on or after January 1, 2020, beginning after the receipt of 260 weeks of benefits under this section, for an injury or injuries that contribute to benefits under this section, weekly compensation benefits under this section must be adjusted annually. The adjustment is equal to the actual percentage increase or decrease in the state average weekly wage, as computed by the Department of Labor, for the previous year or 5%, whichever is less.

The annual adjustment must be made after the receipt of 260 weeks of benefits under this section and on each succeeding anniversary date of the injury, except that when the effect of the maximum benefit under section 211 is to reduce the amount of compensation to which the claimant would otherwise be entitled, the adjustment must be made annually on July 1st.

## **§213. Compensation for partial incapacity**

**1. Benefit and duration.** While the incapacity for work is partial, the employer shall pay the injured employee a weekly compensation as follows.

...

B. If the injured employee's date of injury is on or after January 1, 2013 but before January 1, 2020, the weekly compensation is equal to 2/3 of the difference, due to the injury, between the employee's average gross weekly wages, earnings or salary before the injury and the average gross weekly wages, earnings or salary that the employee is able to earn after the injury, but not more than the maximum benefit under section 211. An employee is not eligible to receive compensation under this paragraph after the employee has received a total of 520 weeks of compensation under section 212, subsection 1-A, this paragraph or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 520 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may be delegated by the board, on a case-by-case basis, to an administrative law judge or a panel of 3 administrative law judges. The board, administrative law judge or panel shall make a decision under this paragraph expeditiously. A decision under this paragraph made by an administrative law judge or a panel of 3 administrative law judges may not be appealed to the board under section 320, but may be appealed pursuant to section 321-A.

Orders extending benefits beyond 520 weeks are not subject to review more often than every 2 years from the date of the board order or request allowing an extension.

C. If the injured employee's date of injury is on or after January 1, 2020, the weekly compensation is equal to 2/3 of the difference, due to the injury, between the employee's average gross weekly wages, earnings or salary before the injury and the average gross weekly wages, earnings or salary that the employee is able to earn after the injury, but not more than the maximum benefit under section 211. An employee is not eligible to receive compensation under this paragraph after the employee has received a total of 624 weeks of compensation under section 212, subsection 1-A, this paragraph or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 624 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may be delegated by the board, on a case-by-case basis, to an administrative law judge or a panel of 3 administrative law judges. The board, administrative law judge or panel shall make a decision under this paragraph expeditiously. A decision under this paragraph made by an administrative law judge or a panel of 3 administrative law judges may not be appealed to the board under section 320, but may be appealed pursuant to section 321-A. Orders extending benefits beyond 624 weeks are not subject to review more often than every 2 years from the date of the board order or request allowing an extension.

...

**1-B. Long-term partial incapacity; date of injury on or after January 1, 2013 but before January 1, 2020.** After the exhaustion of benefits under subsection 1, paragraph B for an injury occurring on or after January 1, 2013 but before January 1, 2020, if the whole person permanent impairment resulting from the injury is in excess of 18% and if the employee is working and the employee's earnings, as measured by average weekly earnings over the most recent 26-week period documented by payroll records or tax returns, is 65% or less of the preinjury average weekly wage, the employer shall pay weekly compensation equal to 2/3 of the difference between the employee's average weekly wage at the time of the injury and the employee's postinjury wage, but not more than the maximum benefit under section 211. In order for the employee to qualify for benefits under this subsection, the employee's actual earnings must be commensurate with the employee's earning capacity, which includes consideration of the employee's physical and psychological work capacity as determined by an independent examiner under section 312. In addition, in order for the employee to qualify for benefits under this subsection, the employee must have earnings from employment for a period of not less than 12 months within a 24-month period prior to the expiration of the 520-week durational limit under subsection 1, paragraph B. Compensation under this subsection must be paid at a fixed rate.

...

#### **§215. Death benefits**

...

**1-B. Death of employee; date of injury on or after January 1, 2020.** If an injured employee's date of injury is on or after January 1, 2020, if death results from the injury of the employee and if the employee has no dependents, the employer shall pay or cause to be paid to the parents of the employee during the parents' lifetime a weekly payment equal to 2/3 of the employee's gross average weekly wages, earnings or salary, but not more than the maximum benefit under section 211, for a period of 500 weeks from the date of death. This subsection does not apply to an injury or death of an employee occurring before January 1, 2020, except that for a death of an employee resulting from an injury the date of which is on or after January 1, 2019 but before January 1, 2020, payment made to the Treasurer of State under section 355, subsection 14, paragraph F must be transferred to the parents of the deceased employee. For the purposes of this subsection, "parent" means a natural or adoptive parent, unless that parent's parental rights have been terminated.

...

#### **§221. Coordination of benefits**

**1. Application.** This section applies when either weekly or lump sum payments are made to an employee as a result of liability pursuant to section 212 or 213 with respect to the same time period for which the employee is also receiving or has received payments for:

...

B. Payments under a self-insurance plan, a wage continuation plan, paid time off or a disability insurance policy provided by the employer; or

...

**3. Coordination of benefits.** Benefit payments subject to this section must be reduced in accordance with the following provisions.

A. The employer's obligation to pay or cause to be paid weekly benefits other than benefits under section 212, subsection 2 or 3 is reduced by the following amounts:

...

(2) The after-tax amount of the payments received or being received under a self-insurance plan, paid time off or a wage continuation plan or under a disability insurance policy provided by the same employer from whom benefits under section 212 or 213 are received if the employee did not contribute directly to the plan or to the payment of premiums regarding the disability insurance policy. If the self-insurance plans, paid time off, wage continuation plans or disability insurance policies are entitled to repayment in the event of a workers' compensation benefit recovery, the insurance carrier shall satisfy the repayment out of funds the insurance carrier has received through the coordination of benefits provided for under this section;

...

H. An employer may not offset paid time off under this subsection if the use of paid time off is mandated by the employer or if it is paid upon separation from the employer.

### **§301. Notice of injury within 90 days**

For claims for which the date of injury is prior to January 1, 2013, proceedings for compensation under this Act, except as provided, may not be maintained unless a notice of the injury is given within 90 days after the date of injury. For claims for which the date of injury is on or after January 1, 2013 and prior to January 1, 2020, proceedings for compensation under this Act, except as provided, may not be maintained unless a notice of the injury is given within 30 days after the date of injury. For claims for which the date of injury is on or after January 1, 2020, proceedings for compensation under this Act, except as provided, may not be maintained unless a notice of the injury is given within 60 days after the date of injury. The notice must include the time, place, cause and nature of the injury, together with the name and address of the injured employee. The notice must be given by the injured employee or by a person in the employee's behalf, or, in the event of the employee's death, by the employee's legal representatives, or by a dependent or by a person in behalf of either.

...

### **§325. Costs; attorney's fees allowable**

...

**6. Attorney's fees for lump-sum settlement in cases in which the injury occurred on or after January 1, 2020.** In cases in which the injury to the employee occurred on or after January 1, 2020, attorney's fees for lump-sum settlements must be determined as follows.

A. Before computing the fee, reasonable expenses incurred on the employee's behalf must be deducted from the total settlement, including:

- (1) Medical examination fee and witness fee;
- (2) Any other medical witness fee, including cost of subpoena;
- (3) Cost of court reporter service; and
- (4) Appeal costs.

B. The computation of the fee, based on the amount resulting after deductions according to paragraph A, may not exceed 10%.

C. If a lump-sum settlement includes any amount that is allocated for past due benefits, the administrative law judge shall review the allocation to make sure that it is not for an amount that is greater than what the employee is claiming.

LD 756 also includes the following language:

**Workers' Compensation Board; rulemaking.** The Workers' Compensation Board may consider adopting a rule to establish time frames for the filing of any petition related to a controversy with the board if a full agreement is not reached by the parties after conclusion of any mediation pursuant to the Maine Revised Statutes, Title 39-A, section 313.

**Study of advocate pay.** No later than January 1, 2020, the Workers' Compensation Board shall study the advocate program established pursuant to the Maine Revised Statutes, Title 39-A, section 153-A, including the salary paid to advocates, and make recommendations for any changes to improve the advocate program and its representation of injured workers. The Joint Standing Committee on Labor and Housing may report out legislation to the Second Regular Session of the 129th Legislature based on the board's report.

**Workers' Compensation Board to establish working group on certain issues; report.** The Workers' Compensation

Board shall convene a working group of stakeholders to evaluate issues related to work search and vocational rehabilitation requirements for injured workers and protections for injured workers whose employers have wrongfully not secured workers' compensation payments. On behalf of the working group, the Workers' Compensation Board shall report to the Joint Standing Committee on Labor and Housing by January 30, 2020 with recommendations and any draft implementing legislation to address these issues. The Joint Standing Committee on Labor and Housing may report out legislation to the Second Regular Session of the 129th Legislature related to the report and recommendations.

## Nevada

**SB 215** was:

- Passed by the first chamber on June 1, 2019
- Passed by the second chamber on June 3, 2019
- Enacted on June 12, 2019, with an effective date of July 1, 2019

**SB 215** amends **section 617.453** of the Nevada Occupational Diseases Act to read:

**NRS 617.453 Cancer as occupational disease of firefighters.**

1. Notwithstanding any other provision of this chapter, cancer, resulting in either temporary or permanent disability, or death, is an occupational disease and compensable as such under the provisions of this chapter if:

(a) The cancer develops or manifests itself out of and in the course of the employment of a person who, for 5 years or more, has been:

(1) Employed in this State in a full-time salaried occupation ~~of fire fighting~~ as:

(I) A firefighter for the benefit or safety of the public;

(II) An investigator of fires or arson; or

(III) An instructor or officer for the provision of training concerning fire or hazardous materials; or

...

(b) It is demonstrated that:

(1) The person was exposed, while in the course of the employment, to a known carcinogen, or a substance reasonably anticipated to be a human carcinogen, as defined by the International Agency for Research on Cancer or the National Toxicology Program; and

(2) The carcinogen or substance, as applicable, is reasonably associated with the disabling cancer.

2. With respect to a person who, for 5 years or more, has been employed in this State ~~in a full-time salaried occupation of fire fighting for the benefit or safety of the public~~, as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, the following substances shall be deemed, for the purposes of paragraph (b) of subsection 1, to be known carcinogens that are reasonably associated with the following disabling cancers:

...

(c) Asbestos, benzene, diesel exhaust and soot, digoxin, ethylene oxide, polychlorinated biphenyls and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with breast cancer.

(d) Diesel exhaust and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with colon cancer.

(e) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with esophageal cancer.

~~(f)~~ (f) Formaldehyde shall be deemed to be a known carcinogen that is reasonably associated with Hodgkin's lymphoma.

~~(g)~~ (g) Formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with kidney cancer.

(h) Benzene, diesel exhaust and soot, formaldehyde, 1,3-butadiene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with leukemia.

~~(i)~~ (i) Chloroform, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with liver cancer.

(j) Arsenic, asbestos, cadmium, chromium compounds, oils, polycyclic aromatic hydrocarbon, radon, silica, soot and tars shall be deemed to be known carcinogens that are reasonably associated with lung cancer.

~~(k)~~ (k) Acrylonitrile, benzene, formaldehyde, polycyclic aromatic hydrocarbon, soot and vinyl chloride shall be deemed to be known carcinogens that are reasonably associated with lymphatic or hematopoietic cancer.

~~(l)~~ (l) Diesel exhaust, soot, aldehydes and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with basal cell carcinoma, squamous cell carcinoma and malignant melanoma.

(m) Benzene, dioxins and glyphosate shall be deemed to be known carcinogens that are reasonably associated with multiple myeloma.

(n) Arsenic, asbestos, benzene, diesel exhaust and soot, formaldehyde and hydrogen chloride shall be deemed to be known carcinogens that are reasonably associated with nasopharyngeal cancer, including laryngeal cancer and pharyngeal cancer.

(o) Benzene, chronic hepatitis B and C viruses, formaldehyde and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with non-Hodgkin's lymphoma.

(p) Asbestos, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with ovarian cancer.

(q) Polycyclic aromatic hydrocarbon shall be deemed to be a known carcinogen that is reasonably associated with pancreatic cancer.

~~(r)~~ (r) Acrylonitrile, benzene and formaldehyde shall be deemed to be known carcinogens that are reasonably associated with prostate cancer.

(s) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with rectal cancer.

(t) Chlorophenols, chlorophenoxy herbicides and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with soft tissue sarcoma.

(u) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with stomach cancer.

~~(v)~~ (v) Diesel exhaust, soot and polychlorinated biphenyls shall be deemed to be known carcinogens that are reasonably associated with testicular cancer.

~~(w)~~ (w) Diesel exhaust, benzene and X-ray radiation shall be deemed to be known carcinogens that are reasonably associated with thyroid cancer.

(x) Diesel exhaust and soot, formaldehyde and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with urinary tract cancer and ureteral cancer.

(y) Benzene and polycyclic aromatic hydrocarbon shall be deemed to be known carcinogens that are reasonably associated with uterine cancer.

3. The provisions of subsection 2 do not create an exclusive list and do not preclude any person from demonstrating, on a case-by-case basis for the purposes of paragraph (b) of subsection 1, that a substance is a known carcinogen or is reasonably anticipated to be a human carcinogen, including an agent classified by the International Agency for Research on Cancer in Group 1 or Group 2A, that is reasonably associated with a disabling cancer.

#### 4. Compensation

4. Except as otherwise provided in 10, compensation awarded to the employee or his or her dependents for disabling cancer pursuant to this section must include:

...

~~5. Disabling~~ For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, disabling cancer is rebuttably presumed to have arisen out of and in the course of the employment of the person if the disease is diagnosed during the course of the person's employment described in paragraph (a) of subsection 1.

6. For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires before July 1, 2019, or has acted as a volunteer firefighter in this State as described in subparagraph (2) of paragraph (a) of subsection 1, regardless of the date on which the volunteer firefighter retires, disabling cancer is rebuttably presumed to have developed or manifested itself arisen out of and in the course of the person's employment of any firefighter described in this section, pursuant to this subsection. This rebuttable presumption applies to disabling cancer diagnosed after the termination of the person's employment if the diagnosis occurs within a period, not to exceed 60 months, which begins with the last date the employee actually worked in the qualifying capacity and extends for a period calculated by multiplying 3 months by the number of full years of his or her employment. This rebuttable presumption must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented.

~~6. The provisions of this section do not create a conclusive presumption.~~

7. For a person who has been employed in this State as a firefighter, investigator, instructor or officer described in subparagraph (1) of paragraph (a) of subsection 1 and who retires on or after July 1, 2019, disabling cancer is rebuttably presumed to have arisen out of and in the course of the person's employment pursuant to this subsection. This rebuttable presumption applies to disabling cancer diagnosed:

(a) If the person ceases employment before completing 20 years of service as a firefighter, investigator, instructor or officer, during the period after separation from employment which is equal to the number of years worked; or

(b) If the person ceases employment after completing 20 years or more of service as a firefighter, investigator, instructor or officer, at any time during the person's life.

8. Service credit which is purchased in a retirement system must not be used to calculate the number of years of service or employment of a person for the purposes of this section.

9. A rebuttable presumption created by subsection 5, 6 or 7 must control the awarding of benefits pursuant to this section unless evidence to rebut the presumption is presented. The provisions of subsections 5, 6 and 7 do not create a conclusive presumption.

10. A person who files a claim for a disabling cancer pursuant to subsection 7 after he or she retires from employment as a firefighter, investigator of fires or arson, or instructor or officer for the provision of training concerning fire or hazardous materials is not entitled to receive any compensation for that disease other than medical benefits.

SB 215 also includes the following language:

The amendatory provisions of this act apply only to claims filed on or after July 1, 2019.

## New Hampshire

HB 337 was:

- Passed by the first chamber on January 31, 2019
- Included in NCCI's February 8, 2019 *Legislative Activity Report* (RLA-2019-04)
- Passed by the second chamber on April 18, 2019
- Included in NCCI's April 26, 2019 *Legislative Activity Report* (RLA-2019-15)
- Enacted on June 21, 2019, with an effective date of August 20, 2019

HB 337 amends *sections 400-A:15-e, 412:13, and 412:16 of Title XXXVII: Insurance* of the New Hampshire Statutes, to read:  
**400-A:15-e Consumer Services Program.—**

...  
III...(c) Nothing in this section shall be construed to waive the confidential and privileged nature of all documents, materials, or other information in possession of the department pursuant to an investigation of a complaint or consumer inquiry, as provided in RSA 400-A:16.

...  
**412:13. Competitive Market.—**

A competitive market is presumed to exist unless the commissioner, after hearing, determines that a reasonable degree of competition does not exist in the market and the commissioner issues a ruling to that effect. Such ruling shall expire no later than ~~one year~~ 2 years after issue unless the commissioner renews the ruling after hearings and a finding as to the continued lack of a reasonable degree of competition. In determining whether a reasonable degree of competition exists, the commissioner shall consider relevant tests of workable competition pertaining to market structure, market performance and market conduct and the practical opportunities available to consumers in the market to acquire pricing and other consumer information and to compare and obtain insurance from competing insurers as further described in RSA 412:14.

...  
**412:16. Rate Filings.—**

...  
II. Every insurer shall file with the commissioner every manual, predictive ~~models~~ model or telematics ~~models~~ model or other ~~models~~ model that ~~pertain~~ pertains to the formulation of rates and/or premiums, minimum premium, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Personal lines filings shall include underwriting rules used by insurers or a group of affiliated insurers to the extent necessary to determine the applicable rate and/or policy premium for an individual insured or applicant. An insurer may file its rates by either filing its final rates or by filing a multiplier and, if applicable, an expense constant adjustment to be applied to prospective loss costs that have been filed by an advisory organization on behalf of the insurer as permitted by RSA 412:23. Every such filing shall state the effective date, and shall indicate the character and extent of the coverage contemplated. Information contained in the underwriting rules that does not pertain to the formulation of rates and/or premiums shall be identified by the filer as proprietary and shall be kept confidential by the department and shall not be subject to the provisions of RSA 91-A.

...  
HB 342 was:

- Passed by the first chamber on January 31, 2019
- Included in NCCI's February 8, 2019 *Legislative Activity Report* (RLA-2019-04)
- Passed by the second chamber on April 11, 2019
- Included in NCCI's April 19, 2019 *Legislative Activity Report* (RLA-2019-14)
- Enacted on June 21, 2019, with an effective date of August 20, 2019

HB 342 amends *section 400-A:37 of Title XXXVII: Insurance* of the New Hampshire Statutes to read as follows:  
**400-A:37. Examinations.**

...  
**IV-a. Privilege for and Confidentiality of Reports and Ancillary Information.**

...  
(e) In order to assist in the performance of the commissioner's duties, the commissioner:

...  
(4) May disclose the content of an examination report, preliminary examination report or results, or any matter relating thereto relative to workers' compensation audits, to the department of labor, and all such information ~~disclosed and or matter relating~~

~~thereto in the possession or control of the department of labor shall be confidential by law and privileged, shall not be subject to disclosure under RSA 91-A, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner of the department of labor shall agree in writing to hold such information confidential and in a manner consistent with this subparagraph.~~

...

## Vermont

**HB 527** was:

- Passed by the first chamber on March 22, 2019
- Included in NCCI's March 29, 2019 **Legislative Activity Report** (RLA-2019-11)
- Amended and passed by the second chamber on May 8, 2019
- Included in NCCI's May 17, 2019 **Legislative Activity Report** (RLA-2019-18)
- Amended and passed by the conference committee on May 23, 2019
- Enacted on June 18, 2019, with an effective date of July 1, 2019

**HB 527**, in part, includes the following language:

### **Workers' Compensation Rate of Contribution**

For fiscal year 2020, after consideration of the formula in 21 V.S.A. Section 711(b) and historical rate trends, the General Assembly determines that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

## BILLS PASSING SECOND CHAMBER

The following workers compensation-related bill passed the second chamber within the one-week period ending June 21, 2019.

## Oregon

**HB 2788** was:

- Passed by the first chamber on June 10, 2019
- Included in NCCI's June 21, 2019 **Legislative Activity Report** (RLA-2019-23)
- Passed by the second chamber on June 17, 2019

**HB 2788** amends **sections 656.506** and **656.790** of the Oregon Workers' Compensation Law to read:

### **656.506 Assessments for programs; setting assessment amount; determination by director of benefit level.**

...

(2) Every employer shall retain from the moneys earned by all employees an amount determined by the Director of the Department of Consumer and Business Services for each hour or part of an hour the employee is employed and pay the money retained in the manner and at such intervals as the director ~~of the Department of Consumer and Business Services~~ shall ~~direct~~ specify.

(3) In addition to all moneys retained under subsection (2) of this section, the director shall assess each employer an amount equal to that assessed pursuant to subsection (2) of this section. The assessment shall must be paid in such manner and at such intervals as the director may ~~direct~~ specify.

(4) ~~The Department of Consumer and Business services shall deposit~~ moneys collected pursuant to subsections (2) and (3) of this section, and any accrued cash balances, ~~shall be deposited by the Department of Consumer and Business Services~~ into the Workers' Benefit Fund. Subject to the limitations in subsections (2) and (3) of this section, the amount of the hourly assessments provided in subsections (2) and (3) of this section annually may be adjusted to meet the needs of the Workers' Benefit Fund for the expenditures of the department in carrying out ~~its~~ the department's functions and duties pursuant to subsection (7) of this section and ORS 656.445, 656.622, 656.625, 656.628 and 656.630. Factors to be considered in making such adjustment of the assessments shall must include, but not be limited to, the cash balance as determined by the director and estimated expenditures and revenues of the Workers' Benefit Fund.

(5) ~~It is the intent of The Legislative Assembly intends~~ that the department set rates for the collection of assessments pursuant to subsections (2) and (3) of this section in a manner so that at the end of the period for which the rates shall ~~be~~ are effective, the ~~cash balance shall be of the Workers' Benefit Fund is~~ an amount of not less than ~~six~~ 12 months of projected expenditures from the ~~Workers' Benefit~~ fund in regard to ~~its~~ the department's functions and duties under subsection (7) of this section and ORS 656.445, 656.622, 656.625, 656.628 and 656.630, in a manner that minimizes the volatility of the rates assessed. If the department determines that the balance of the fund will fall below the balance required under this subsection, the department shall devise and report to the Workers' Compensation Management-Labor Advisory Committee a plan to increase the balance to the required amount. The department may set the assessment rate at a higher level if the department determines that a higher rate is

necessary to avoid unintentional program or benefit reductions in the time period immediately following the period for which the rate is being set.

(6) Every employer required to pay the assessments referred to in this section shall make and file a report of employee hours worked and amounts due under this section upon a combined report form prescribed by the Department of Revenue. The report ~~shall~~ must be filed with the Department of Revenue:

...

(7) There is established a Retroactive Program for the purpose of providing increased benefits to claimants or beneficiaries eligible to receive compensation under the benefit schedules of ORS 656.204, 656.206, 656.208 and 656.210 ~~which that~~ are lower than currently being paid for like injuries. However, benefits payable under ORS 656.210 ~~shall may~~ not be increased by the Retroactive Program for claimants whose injury occurred on or after April 1, 1974. Notwithstanding the formulas for computing benefits provided in ORS 656.204, 656.206, 656.208 and 656.210, the increased benefits payable under this subsection ~~shall must~~ be in such amount as the director considers appropriate. The director annually shall compute the amount which may be available during the succeeding year for payment of such increased benefits and determine the level of benefits to be paid during such year. If, during such year, it is determined by the director that there are insufficient funds to increase benefits to the level fixed by the director, the director may reduce the level of benefits payable under this subsection. The increase in benefits to workers ~~shall be~~ is payable in the first instance by the insurer or self-insured employer subject to reimbursement from the Workers' Benefit Fund by the director. If the insurer is a member of the Oregon Insurance Guaranty Association and becomes insolvent and the Oregon Insurance Guaranty Association assumes the insurer's obligations to pay covered claims of subject workers, including Retroactive Program benefits, ~~such the~~ benefits shall be are payable in the first instance by the Oregon Insurance Guaranty Association, subject to reimbursement from the Workers' Benefit Fund by the director.

#### **656.790 Workers' Compensation Management-Labor Advisory Committee; membership; duties; expenses.**

...

(2) The director may recommend areas of the law which the director desires to have studied or the committee may study such aspects of the law as the committee shall determine require their consideration. The committee shall biennially review the standards for evaluation of permanent disability adopted under ORS 656.726 and shall recommend to the director factors to be included or such other modification of application of the standards as the committee considers appropriate. The committee shall biennially review and make recommendations about permanent partial disability benefits. The committee shall advise the director regarding any proposed changes in the operation of programs funded by the Workers' Benefit Fund and shall review any plan the Department of Consumer and Business Services devises to increase the balance of the fund to meet the requirement set forth in ORS 656.506 (5). The committee shall report ~~its~~ the committee's findings to the director for such action as the director deems appropriate.

...

(4) The members of the committee ~~shall be~~ are appointed for a term of three years and shall serve without compensation, but ~~shall be~~ are entitled to travel expenses. The committee may hire, subject to approval of the director, such experts as ~~it~~ the committee may require to discharge ~~its~~ the committee's duties. All expenses of the committee ~~shall~~ must be paid out of the Consumer and Business Services Fund.

#### **BILLS PASSING FIRST CHAMBER**

The following workers compensation-related bills passed the first chamber within the one-week period ending June 21, 2019.

#### **Rhode Island**

**HB 6004 Substitute A** adds a new section to the Rhode Island General Laws to read:

##### **§ 31-3-6.4. Suspension of registration for failing to secure payment of workers' compensation.**

Upon receiving notice from the department of labor and training that a motor carrier has failed to secure workers' compensation insurance as required under chapters 29 through 38 of title 28, the division of motor vehicles may suspend the registration privileges of such motor carrier. Any registration privileges suspended under this section shall not be reinstated until the division of motor vehicles receives notification from the department of labor and training that the motor carrier has secured workers' compensation insurance as required and the motor carrier pays the appropriate reinstatement fee to the division of motor vehicles.

**HB 6134** amends *sections 28-33-18, 28-33-22, 28-33-25, 28-33-44, and 28-35-14*; and repeals sections *28-35-46, 28-35-47, 28-35-48, 28-35-49, 28-35-50, and 28-35-51* of the Rhode Island General Laws as follows:

##### **§ 28-33-18. Weekly compensation for partial incapacity.**

(a) While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employee a weekly compensation equal to seventy-five percent (75%) of the difference between his or her spendable average weekly base wages, earnings, or salary before the injury as computed pursuant to the provisions of ~~§ 28-38-20~~ 28-33-20, and his or her spendable weekly wages, earnings, salary, or earnings capacity after that, but not more than the maximum weekly compensation rate for total incapacity as set forth in § 28-33-17. The provisions of this section are subject to the provisions of § 28-33-18.2.

...

**§ 28-33-22. Minors employed in violation of law.**

...

(c) Whenever the workers' compensation insurance carrier for the employer is obligated to pay treble the amount which would have been payable if that minor had been legally employed, the workers' compensation insurance carrier shall have a complete right of indemnification to the extent the additional benefits are paid against the employer for the additional benefits paid above and beyond the usual workers' compensation indemnity benefit.

**§ 28-33-25. Settlement for lump sum or structured-type payment.**

(a)(1) ~~In case payments have continued for not less than six (6) months, the~~ The parties may petition the workers' compensation court for an order approving a settlement of the future liability for a lump sum or structured-type periodic payment over a period of time.

...

**§ 28-33-44. Continuation of health insurance benefits.**

...

(b) In the event any employer fails to comply with the provisions of this section, and not its workers' compensation insurance carrier, then the employer shall be liable for hospital and medical costs that would have been paid by the hospital or medical insurance plan afforded the employee had he or she been covered by the plan.

...

**§ 28-35-14. Copies of petition to respondents.**

Upon filing with the workers' compensation court of any petition, stating the general nature of any claim as to which any dispute or controversy may have arisen, the petitioner shall serve a copy of the petition and its attachments on the respondent or respondents in accordance with the workers' compensation court rules of practice.

HB 6134 also repeals the following sections of the Rhode Island General Laws:

~~**§ 28-35-46. Notice of intent to discontinue, suspend, or reduce payments—Filing—Form.**~~

~~Before an employer may discontinue, suspend, or reduce compensation payments whether they are being received under an agreement, memorandum of agreement, award, order, finding, or decree, or when suitable alternative employment has been offered to the employee pursuant to § 28-33-18.2, the employer shall notify the court and the employee of his or her intention to discontinue, suspend, or reduce payments and the reason for doing so by filing with the court an affidavit setting forth the factual basis for filing the petition to review along with a copy of the medical reports upon which the employer seeks to justify the discontinuance, suspension, or reduction in payments. A copy of the affidavit and medical report shall be forwarded to the employee. The notice of intention to discontinue, suspend, or reduce payments must be given fifteen (15) days prior to the proposed date of discontinuance, suspension, or reduction; provided, that where an employee has returned to work at an average weekly wage equal to or in excess of that which he or she was earning at the time of his or her injury, not including overtime, the notice of intention to discontinue, suspend, or reduce the payments provided for in this section may be given five (5) days prior to the proposed date of discontinuance. Notices shall be in substantially the following form:~~

~~Notice to Workers' Compensation Court and Employee of  
Intention to Discontinue, Suspend, or Reduce Payment~~

~~You are hereby notified that the undersigned employer intends on the..... day of..... 20....., to discontinue, suspend, or reduce the payments of compensation to the above-named employee for the following reasons, to wit:~~

- ~~(1) Employee has returned to work at an average weekly wage equal to or in excess of that which he or she was earning at the time of his or her injury, not including overtime.~~
- ~~(2) Employee has returned to work and is earning wages in the sum of..... dollars weekly.~~
- ~~(3) Employee has been discharged by his or her treating physician on the..... day of..... 20.....~~

~~**§ 28-35-47. Wage transcript supporting allegation of return to work.**~~

~~Where the notice of intention to discontinue, suspend, or reduce payments of compensation alleges that the employee has returned to work at an average weekly wage equal to or in excess of that which he or she was earning at the time of his or her injury, not including overtime, or has returned to work for wages less than he or she was earning at the time of the injury, the notice shall contain a signed wage transcript signed by the treasurer of the employer, or other appropriate official, setting forth the number of hours worked, the rate of pay, and the wages earned during the period relied upon corroborating the allegation. Provided, that indemnity benefits may be discontinued if the employer files with the department of labor and training a wage transcript showing that the employee has returned to work for at least two (2) consecutive weeks at a salary equal to or in excess of that which he or she was earning, not including overtime, at the time of his or her injury. Notice of the filing shall be sent to the~~

employee and/or the employee's legal representative. If the employee files an objection within two (2) weeks, the matter shall be referred to the court for disposition pursuant to § 28-35-51, and the court may order benefits reinstated.

**~~§ 28-35-48. Medical report on ability to return to work.~~**

~~Where the notice of intention to discontinue, suspend, or reduce payments of compensation alleges that the employee is able to return to work, the notice shall be supported by a report of a treating physician.~~

**~~§ 28-35-49. Medical examination on ability to return to light work.~~**

~~Where the notice of intention to discontinue, suspend, or reduce payments of compensation alleges that the employee is able to return to light selected work, the notice shall be supported by a report of a treating physician.~~

**~~§ 28-35-50. Resumption of payments on change of status.~~**

~~If subsequent to the filing of any notice provided for in this chapter there is any change of status of the employee which would affect the right to discontinue, reduce, or suspend compensation payments under §§ 28-35-39—28-35-53, such as, the unwarranted discharge of the employee, a reduction of wages suffered by an employee while he or she is still unable to perform the work which he or she did at the time of his or her injury, or the inability of the employee to continue work due to his or her injury, between the time of the filing of the notice and the time of suspension under the notice, or the time of rendering of a decision following a hearing before the workers' compensation court, payments in accordance with the existing agreement, award, finding, or decree shall be resumed or continued.~~

**~~§ 28-35-51. Review of discontinuance, suspension, or reduction—Disputed cases.~~**

~~Upon receipt of notice of intention to discontinue, suspend, or reduce compensation payments, the court shall notify the employee that he or she has a right to dispute the claim of the employer or insurance carrier and assign the matter for a mandatory pre-trial conference on the date set forth in the notice pursuant to § 28-35-20.~~

**Note: HB 6134 is identical to SB 909.**

**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
SC, TN	Amy Quinn	561-893-3812
HI, NM, NV, UT	Brett Barratt	801-401-6464
IL, MO, OK	Carla Townsend	561-893-3819
AZ, KS, KY	Clarissa Preston	561-945-4517
DC, MD, VA, WV	David Benedict	804-380-3005
FL	Dawn Ingham	561-893-3165
IN, NC	Michelle Smith	561-893-3016
CT, ME, NH, RI	Justin Moulton	860-969-7903
VT	Laura Backus Hall	802-454-1800
AL, GA, LA, MS	Laura Hart Bryan	225-635-4481
CO, IA, NE, SD	Stephanie Paswaters	303-200-6728
AR, TX	Terri Robinson	501-333-2835
Federal Issues	Tim Tucker	202-403-8526
AK, ID, MT, OR	Todd Johnson	561-893-3814

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