



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 July 12, 2019.

Illinois

HB 269 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 16, 2019
- Included in NCCI's May 24, 2019 **Legislative Activity Report** (RLA-2019-19)
- Enacted on July 12, 2019, with an effective date of January 1, 2020

HB 269 amends **sections 820 ILCS 305/4** and **820 ILCS 305/4a-5** of the Illinois Workers' Compensation Act to read:

820 ILCS 305/4

Sec. 4.

...

(a-1)

...

Any penalty under this subsection (a-1) must be imposed not later than one year after the expiration of the applicable limitation period specified in subsection (d) of Section 6 of this Act. Penalties imposed under this subsection (a-1) shall be deposited into the Illinois Workers' Compensation Commission Operations Fund, a special fund that is created in the State treasury. Subject to appropriation, moneys in the Fund shall be used solely for the operations of the Illinois Workers' Compensation Commission, the salaries and benefits of the Self-Insurers Advisory Board employees, the operating costs of the Self-Insurers Advisory Board, and by the Department of Insurance for the purposes authorized in subsection (c) of Section 25.5 of this Act.

...

(d) Whenever a Commissioner, with due process and after a hearing, determines an employer has knowingly failed to provide coverage as required by paragraph (a) of this Section, the failure shall be deemed an immediate serious danger to public health, safety, and welfare sufficient to justify service by the Commission of a work-stop order on such employer, requiring the cessation of all business operations of such employer at the place of employment or job site. If a business is declared to be extra hazardous, as defined in Section 3, a Commissioner may issue an emergency work-stop order on such an employer ex parte, prior to holding a hearing, requiring the cessation of all business operations of such employer at the place of employment or job site while awaiting the ruling of the Commission. Whenever a Commissioner issues an emergency work-stop order, the Commission shall issue a notice of emergency work-stop hearing to be posted at the employer's places of employment and job sites. ~~Whenever a panel of 3 Commissioners comprised of one member of the employing class, one member of the employee class, and one member not identified with either the employing or employee class, with due process and after a hearing, determines an employer has knowingly failed to provide coverage as required by paragraph (a) of this Section, the failure shall be deemed an immediate serious danger to public health, safety, and welfare sufficient to justify service by the Commission of a work-stop order on such employer,~~

~~requiring the cessation of all business operations of such employer at the place of employment or job site.~~ Any law enforcement agency in the State shall, at the request of the Commission, render any assistance necessary to carry out the provisions of this Section, including, but not limited to, preventing any employee of such employer from remaining at a place of employment or job site after a work-stop order has taken effect. Any work-stop order shall be lifted upon proof of insurance as required by this Act. Any orders under this Section are appealable under Section 19(f) to the Circuit Court.

...

All investigative actions must be acted upon within 90 days of the issuance of the complaint. Employers who are subject to and who knowingly fail to comply with this Section shall not be entitled to the benefits of this Act during the period of noncompliance, but shall be liable in an action under any other applicable law of this State. In the action, such employer shall not avail himself or herself of the defenses of assumption of risk or negligence or that the injury was due to a co-employee. In the action, proof of the injury shall constitute prima facie evidence of negligence on the part of such employer and the burden shall be on such employer to show freedom of negligence resulting in the injury. The employer shall not join any other defendant in any such civil action. Nothing in this amendatory Act of the 94th General Assembly shall affect the employee's rights under subdivision (a)3 of Section 1 of this Act. Any employer or carrier who makes payments under subdivision (a)3 of Section 1 of this Act shall have a right of reimbursement from the proceeds of any recovery under this Section.

...

An investigator with the Illinois Workers' Compensation Commission Insurance Compliance Division may issue a citation to any employer that is not in compliance with its obligation to have workers' compensation insurance under this Act. The amount of the fine shall be based on the period of time the employer was in non-compliance, but shall be no less than \$500, and shall not exceed ~~\$10,000~~ \$2,500. An employer that has been issued a citation shall pay the fine to the Commission and provide to the Commission proof that it obtained the required workers' compensation insurance within 10 days after the citation was issued. This Section does not affect any other obligations this Act imposes on employers.

Upon a finding by the Commission, after reasonable notice and hearing, of the knowing and ~~willful~~ willful failure or refusal of an employer to comply with any of the provisions of paragraph (a) of this Section, the failure or refusal of an employer, service or adjustment company, or an insurance carrier to comply with any order of the Illinois Workers' Compensation Commission pursuant to paragraph (c) of this Section disqualifying him or her to operate as a self insurer and requiring him or her to insure his or her liability, or the knowing and willful failure of an employer to comply with a citation issued by an investigator with the Illinois Workers' Compensation Commission Insurance Compliance Division, the Commission may assess a civil penalty of up to \$500 per day for each day of such failure or refusal after the effective date of this amendatory Act of 1989. The minimum penalty under this Section shall be the sum of \$10,000. Each day of such failure or refusal shall constitute a separate offense. The Commission may assess the civil penalty personally and individually against the corporate officers and directors of a corporate employer, the partners of an employer partnership, and the members of an employer limited liability company, after a finding of a knowing and willful refusal or failure of each such named corporate officer, director, partner, or member to comply with this Section. The liability for the assessed penalty shall be against the named employer first, and if the named employer fails or refuses to pay the penalty to the Commission within 30 days after the final order of the Commission, then the named corporate officers, directors, partners, or members who have been found to have knowingly and willfully refused or failed to comply with this Section shall be liable for the unpaid penalty or any unpaid portion of the penalty. Upon investigation by the insurance non-compliance unit of the Commission, the Attorney General shall have the authority to prosecute all proceedings to enforce the civil and administrative provisions of this Section before the Commission. The Commission shall promulgate procedural rules for enforcing this Section. If an employer is found to be in non-compliance with any provisions of paragraph (a) of this Section more than once, all minimum penalties will double. Therefore, upon the failure or refusal of an employer, service or adjustment company, or insurance carrier to comply with any order of the Commission pursuant to paragraph (c) of this Section disqualifying him or her to operate as a self-insurer and requiring him or her to insure his or her liability, or the knowing and willful failure of an employer to comply with a citation issued by an investigator with the Illinois Workers' Compensation Commission Insurance Compliance Division, the Commission may assess a civil penalty of up to \$1,000 per day for each day of such failure or refusal after the effective date of this amendatory Act of the 101st General Assembly. The minimum penalty under this Section shall be the sum of \$20,000. In addition, employers with 2 or more violations of any provisions of paragraph (a) of this Section may not self-insure for one year or until all penalties are paid.

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820 ILCS 305/4a-5

Sec. 4a-5. There is hereby created a Self-Insurers Security Fund. The State Treasurer shall be the ex-officio custodian of the Self-Insurers Security Fund. ~~Moneys~~ Moneys in the Fund shall be deposited in a separate account in the same manner as are State Funds and any interest accruing thereon shall be added thereto every 6 months. It shall be subject to audit the same as State funds and accounts and shall be protected by the general bond given by the State Treasurer. The funds in the Self-Insurers Security Fund shall not be subject to appropriation and shall be made available for the purposes of compensating employees who are eligible to receive benefits from their employers pursuant to the provisions of the Workers' Compensation Act or Workers' Occupational Diseases Act, when, pursuant to this Section, the Board has determined that a private self-insurer has become an insolvent self-

insurer and is unable to pay compensation benefits due to financial insolvency. ~~Moneys~~ ~~Moneys~~ in the Fund may be used to compensate any type of injury or occupational disease which is compensable under either Act, and all claims for related administrative fees, operating costs of the Board, ~~attorney's attorneys~~ fees, and other costs reasonably incurred by the Board. At the discretion of the Chairman, moneys in the Self-Insurers Security Fund may also be used for paying the salaries and benefits of the Self-Insurers Advisory Board employees and the operating costs of the Board. Payment from the Self-Insurers Security Fund shall be made by the Comptroller only upon the authorization of the Chairman as evidenced by properly certified vouchers of the Commission, upon the direction of the Board.

HB 2173 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 9, 2019
- Included in NCCI's May 17, 2019 *Legislative Activity Report* (RLA-2019-18)
- Enacted and effective on July 12, 2019

HB 2173 adds a new section and amends numerous sections of the Illinois Insurance Code related to the Illinois Insurance Guaranty Fund to:

- Provide that a "covered claim" does not include a claim for fines and penalties paid to government authorities
- Provide that the board of directors of the Illinois Insurance Guaranty Fund has the authority to assess to pay off a loan necessary to pay covered claims
- Provide that if the loan is projected to be outstanding for three years or more, the board of directors has the authority to increase the assessment to 3% of net direct written premiums for the previous year until the loan has been paid in full
- Make changes in provisions that specify conditions under which the Fund is bound by certain settlements, releases, compromises, waivers, and final judgments
- Provide that the Fund may also take legal action to recover from insurers and insureds in certain circumstances
- Provide that the Illinois Insurance Guaranty Fund has the absolute right through emergency equitable relief to obtain custody and control of certain claims information in possession of certain third party administrators, agents, attorneys, or other representatives of an insolvent insurer
- Provide that any person recovering under the Article and any insured whose liabilities are satisfied under the Article shall be deemed to have assigned the person's or insured's rights under the policy to the Fund, to the extent of their recovery or satisfaction obtained from the Fund's payments
- Provide that the Illinois Insurance Guaranty Fund shall recover from the high net worth insured for all amounts paid on its behalf, all allocated claim adjusted expenses related to such claims, the Fund's attorney fees, and all court costs in any action necessary to collect the full amount for the Fund's reimbursement

BILLS PASSING SECOND CHAMBER

The following workers compensation-related bill passed the second chamber within the one-week period ending July 12, 2019.

North Carolina

HB 220 was:

- Passed by the first chamber on May 2, 2019
- Included in NCCI's July 12, 2019 *Legislative Activity Report* (RLA-2019-26)
- Amended and passed by the second chamber on July 9, 2019

HB 220, in part, amends **section 58-36-30** of the North Carolina Insurance Law to read:

§ 58-36-30. Deviations.

...

~~(c) Any approved rate under subsection (b) of this section with respect therewith shall be furnished to the Bureau. therewith. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner.~~ This subsection applies only to workers' compensation and employers' liability insurance written in connection therewith shall be furnished to the Bureau. therewith. A rate in excess of that promulgated by the Bureau may be charged by an insurer on any specific risk if the higher rate is charged in accordance with rules adopted by the Commissioner.

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BILLS PASSING FIRST CHAMBER

There were no relevant workers compensation-related bills that passed the first chamber within the one-week period ending July 12, 2019.

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