



2023 Regulatory and Legislative Trends Report





TABLE OF CONTENTS

Introduction	1
Overview of 2023 Legislative and Regulatory Activity	1
Interactive Dashboards.....	2
Legislative Activity Online Resource	4
Legislative Activity Online Resources–State Example	5
States By Zone.....	6
Midwestern Zone.....	7
Highlights from the Midwestern Zone.....	7
Northeastern Zone.....	9
Highlights from the Northeastern Zone	9
Southeastern Zone.....	11
Highlights from the Southeastern Zone.....	11
Western Zone.....	13
Highlights from the Western Zone	13
2023 Legislative Sessions	15
Topics of Interest	16
Mental Injury-Related Legislation.....	16
Mental Injury Compensability: 2023 Legislative Activity	20
Hallucinogens and Psychedelics	21
Marijuana Legalization.....	22
2023 Marijuana Legalization Status.....	23
Marijuana Reimbursement.....	24
Independent Contractors/Gig Economy.....	26
COVID-19 Workers Compensation Legislation	27
Single-Payer Health Insurance	29
Appendix	31



INTRODUCTION

The **2023 Regulatory and Legislative Trends Report (Report)** highlights the state legislative activity that shaped the workers compensation landscape this year. This comprehensive resource includes the latest developments on topics of interest including workers compensation for workplace-related mental injuries, marijuana reimbursement, independent contractors/gig economy, COVID-19 workers compensation legislation, and single-payer health insurance. This information aligns with the legislative cycle to include the latest countrywide, regional, and individual state actions and trends as of July 31, 2023.

The first part of the **Report** discusses legislative activity by geographical zone, and the second part provides additional details on the topics of interest. In addition, links to the **Enacted Legislation–Interactive Dashboard** and **Loss Cost/Rate Filing–Interactive Dashboard** are available on pages 2 and 3 of the **Report**. These pages also include information about the dashboards’ functionality.

For easy access to all of the information in the **Report**, the Table of Contents contains links that jump directly to the applicable content page.

Overview of 2023 Legislative and Regulatory Activity



As of July 31, 2023, NCCI tracked **809** state and federal bills that could impact workers compensation stakeholders, including **483** bills in states where NCCI provides ratemaking services. To date, **143** bills were enacted. This year’s legislative themes were similar to recent years, including workers compensation for workplace-related mental injuries, marijuana legalization, independent contractors/gig economy, and single-payer health insurance. While COVID-19 legislation was not as prominent as it was during the peak of the pandemic, several states considered COVID-19 legislation this year.

NCCI also monitored **236** proposed workers compensation-related regulations. As of July 31, **83** of those proposed regulations were adopted. As in prior years, medical cost containment was the top theme of the regulations adopted, including medical fee schedules and treatment guidelines. Several of the adopted regulations addressed claims reporting requirements and court hearing rules and procedures.



INTERACTIVE DASHBOARDS

The **2023 Regulatory and Legislative Trends** page offers two interactive dashboards:

- **[Enacted Legislation—Interactive Dashboard](#)** provides interactive navigation for a countrywide view of enacted workers compensation-related legislation. You can easily sort information by year, state, zone, and topic of interest.

ENACTED LEGISLATION - INTERACTIVE DASHBOARD

Year
 2022
 2023

State
 Select all
 Arizona
 California
 Colorado
 Connecticut
 Delaware
 Florida
 Georgia
 Hawaii
 Idaho
 Illinois
 Indiana
 Iowa
 Kansas
 Kentucky
 Louisiana
 Maine
 Maryland
 Massachusetts
 Michigan
 Minnesota
 Missouri
 Montana
 Nebraska
 Nevada
 New Hampshire
 New Jersey
 New Mexico
 New York
 North Carolina
 North Dakota
 Ohio
 Oklahoma
 Oregon
 Pennsylvania
 Rhode Island
 South Carolina
 South Dakota
 Tennessee
 Texas
 Utah
 Vermont
 Virginia
 Washington
 West Virginia
 Wisconsin
 Wyoming

Topic
 Select all
 Administrative
 Benefits
 Coverage
 First Responders
 Independent Cont...
 Marijuana
 Medical
 Mental Injuries
 Multiple
 Multiple Topics
 Other Topics

Zone
 Select all
 Midwest
 Northeast
 Southeast
 West

Enacted Legislation

Zone ● Midwest ● Northeast ● Southeast ● West

States in blue have enacted legislation this year. Clicking on a state(s) will narrow the details below to your custom selections.

State	Topic	Bill	Summary	Link	
Arizona		SB 1164	Requires workers compensation insurers to establish a Fraud Unit for the purpose of investigating fraudulent activities made in connection with	Link	
Arizona		HB 2431	Provides for the payment of workers compensation premiums from public employers to commercial workers compensation insurers that cover firefighters,	Link	
Arkansas		SB 26	Makes a change to the Workers Compensation Commission for the fiscal year ending June 30,	Link	
Arkansas	Other Topics	Child Labor	SB 390	Clarifies the definition of child labor.	Link
California	Administrative	Indemnity Payments	AB 489	Extends the authorization to deposit indemnity payments in a prepaid card account until January 1, 2025.	Link
Colorado	Multiple Topics	Benefits, Medical, Attorney Fees	HB 23-1076	Relates to increasing the duration of benefits based on mental impairment; removes the authority to petition for a hearing on the loss of total temporary disability benefits under certain circumstances; updates procedure for medical examinations; and increases the amount of attorney fees that are presumed unreasonable.	Link
Colorado	Other Topics	Exclusive Remedy	HB 23-1196	Clarifies that workers compensation is not the exclusive remedy for persons aggrieved by violations of the Colorado Youth Employment Opportunity Act of 1971.	Link
Colorado	Other Topics	Liquidation	HB 23-1303	Amends the priority of distribution of insurance claims paid from an insurer's estate in the event of the insurer's liquidation to include in the class 1 distribution priority payments that an impaired or insolvent insurer owes to the risk adjustment program that are necessary to prevent another insurer from becoming impaired or insolvent. This prioritization adjustment repeals on July 1, 2026.	Link
Connecticut	Coverage	Emergency Dispatches	HB 6731	Provides emergency dispatches with special workers compensation coverage.	Link

You can select the year.

You can create a custom view using one or more of the category filters. Select more than one option within a filter by holding CTRL.

To enlarge the view for a particular image, hover over the image to select Focus Mode in the upper right corner.

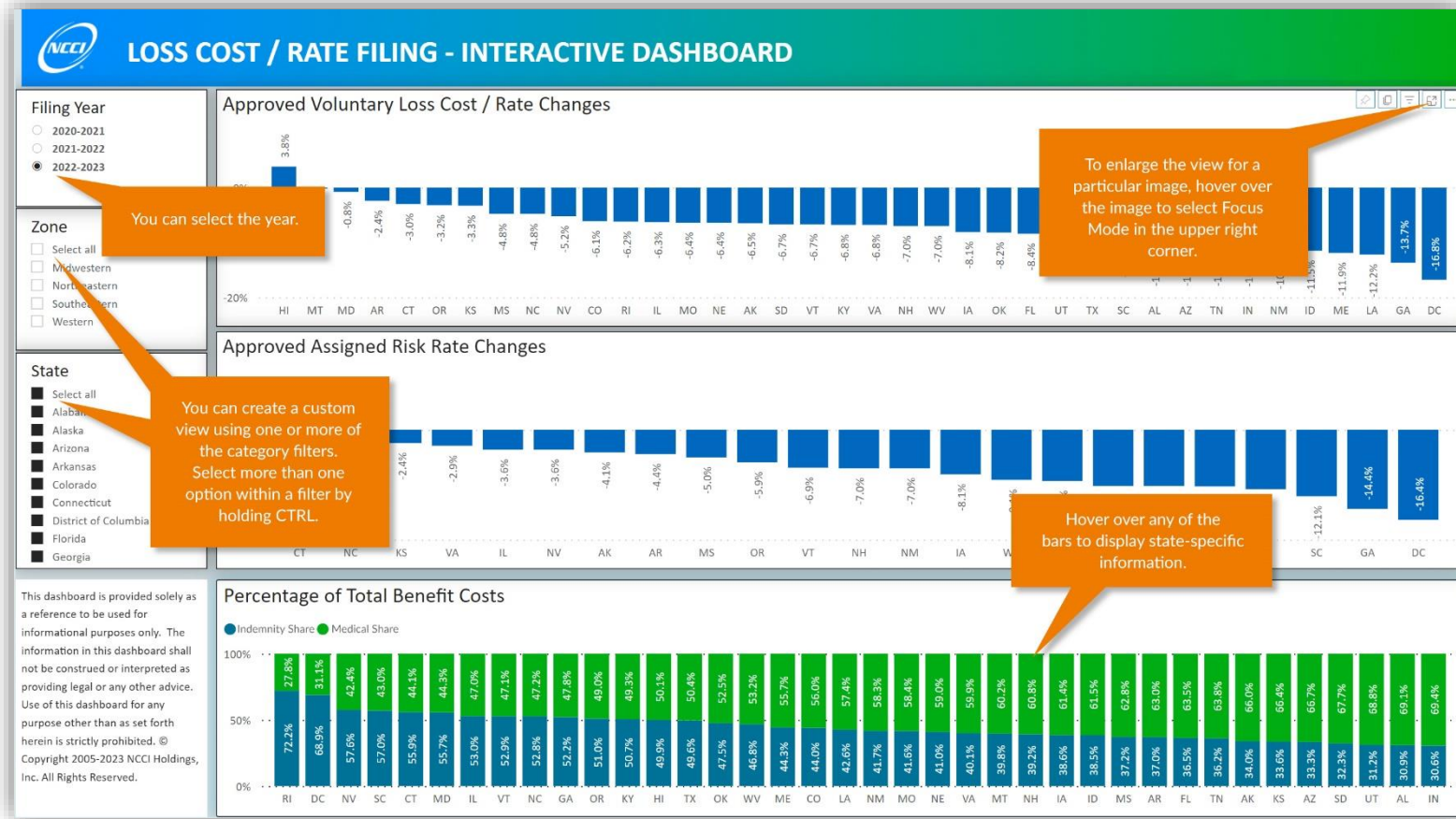
Click on the zone button to customize your selection. Hold CTRL to select multiple zones.

Click the link to visit the state website. Scroll for additional entries.

This tool is provided solely as a reference tool to be used for informational purposes only. The information in this article shall not be construed or interpreted as providing legal or any other advice. Use of this article for any purpose other than as set forth herein is strictly prohibited. © Copyright 2005-2023 NCCI Holdings, Inc. All Rights Reserved.



- [Loss Cost/Rate Filing—Interactive Dashboard](#) allows you to navigate Loss Cost/Rate data and interact with workers compensation information in new and insightful ways.





LEGISLATIVE ACTIVITY ONLINE RESOURCE

Visit the Legislative Activity Online Resource for continuous updates on regulatory and legislative developments.

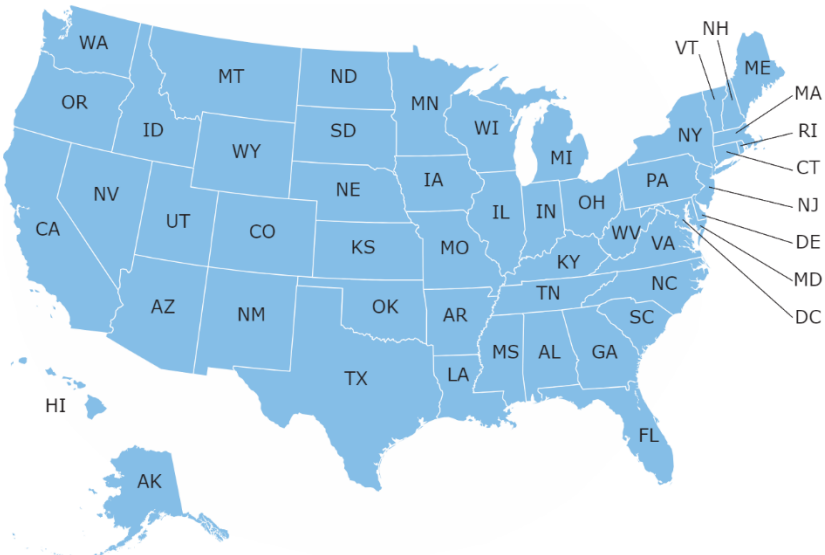
Legislative Activity

As part of our efforts to provide information on workers compensation legislative activity, NCCI identifies and monitors relevant workers compensation-related bills in all jurisdictions and the federal government.

In addition, one of NCCI's core services is providing cost analyses of proposed legislation. Completed NCCI cost analyses of enacted legislation are available for jurisdictions where NCCI provides ratemaking services.

You can access these bills and cost analysis through the interactive map below by clicking on any specific jurisdiction.

[Click here to see items for Federal.](#)



RECENT UPDATES

- 2023 COVID-19 Regulatory and Legislative Activity (PDF)
Updated
- Enacted Legislation Report – 2023
Updated

Content Requires Authentication

- Connecticut Cost Impact Analysis
Updated
- Nevada Cost Impact Analysis
Updated

WHAT'S TRENDING

- Enacted ME LD 1123—Relates to a workers compensation presumption for cardiovascular injury or disease and pulmonary disease for certain law enforcement officers New
- Enacted NH SB 71—Relates to expanding the workers compensation presumption for firefighters to all cancer diseases
Updated
- In Senate Committee NY S 7624—Relates to certain claims for compensation based on a COVID-19 diagnosis New
- In House Committee PA HB 1431—Relates to establishing a COVID-19 workers compensation presumption for employees of a life-sustaining business or occupation Updated



LEGISLATIVE ACTIVITY ONLINE RESOURCE—STATE EXAMPLE

Colorado—Legislative Activity 🖨️ ✉️



[Industry Information](#) » [Legislative Activity](#)

NCCI's Legislative Activity Page is provided "As Is", solely as a reference tool to be used for informational purposes only. This page contains summaries of various workers compensation related bills as initially drafted, which are subject to change and frequently do. The end user is responsible for ensuring the accuracy of the information contained herein prior to use for any purpose. The information on this page shall not be construed or interpreted as providing legal or any other advice.

BILL STATUS

HB 23-1196 - Enacted
Last Modified: 6/9/2023
 Clarifies that workers compensation is not the exclusive remedy for persons aggrieved by violations of the "Colorado Youth Employment Opportunity Act of 1971."

HB 23-1076 - Enacted
Last Modified: 6/7/2023
 Relates to increasing the duration of benefits based on mental impairment; removes the authority to petition over artificial devices; allows an employee to request a hearing on the loss of total temporary disability benefits under certain circumstances; updates provisions related to independent medical examinations; and increases the amount of attorney fees that are presumed unreasonable.

HB 23-1303 - Enacted
Last Modified: 5/17/2023
 Concerns protections in the event of an insurance company failure.

HB 22-1347 - Enacted
Last Modified: 6/9/2022
 Relates to increasing funeral benefits, allowing for advance mileage expense payments, addressing the payment of scheduled ratings, and requiring reporting of certain active medical treatments.

COST IMPACT ANALYSIS

Content Requires Authentication

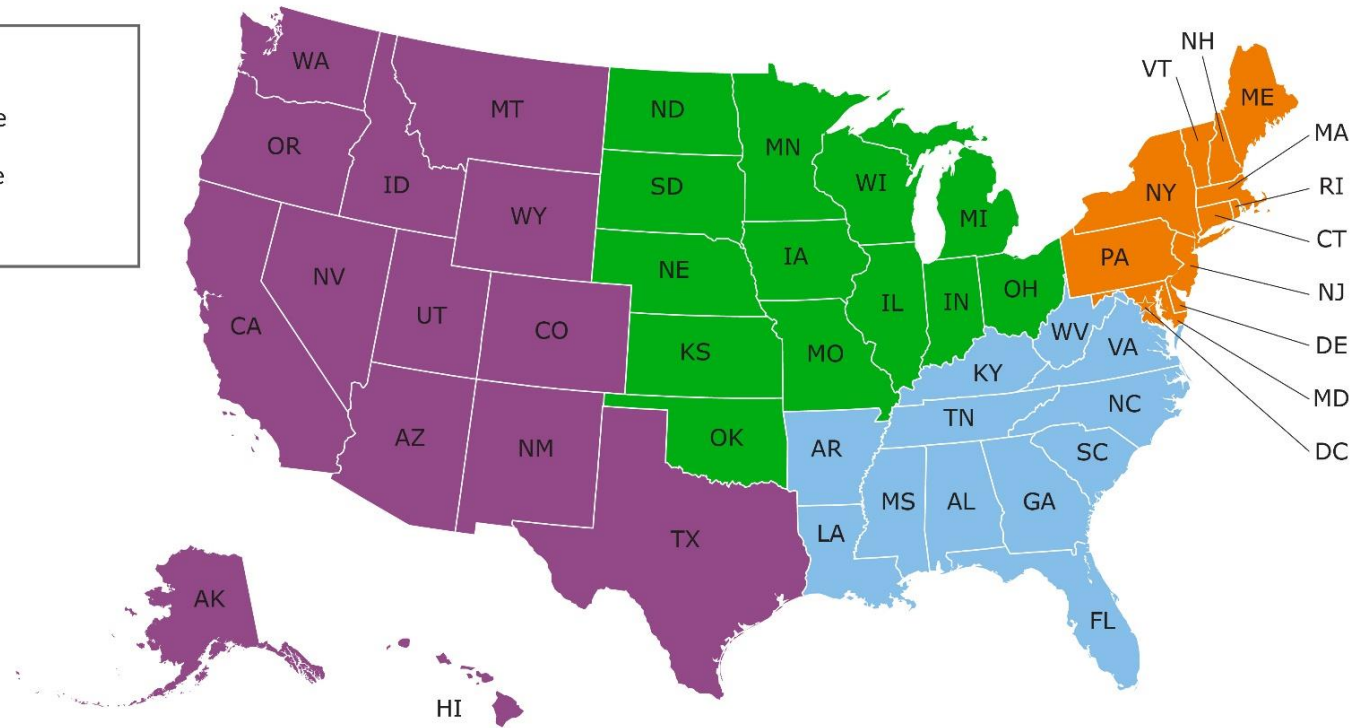
Colorado Medical Fee Schedule (PDF)—Updated on 04/25/23

Colorado House Bill 21-1050 (PDF)—Added on 08/26/21

Colorado Enacted House Bill (HB) 1347 (PDF)—Added on 08/1/22



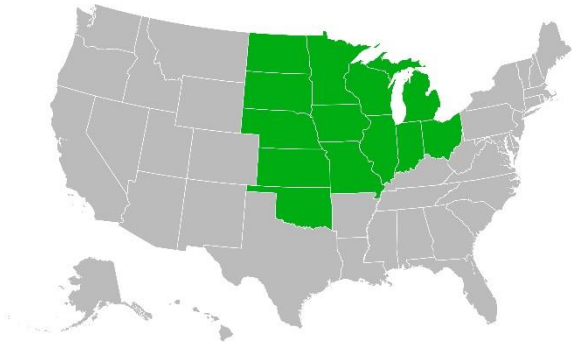
STATES BY ZONE





MIDWESTERN ZONE

The Midwestern Zone includes these states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, and Wisconsin.



Highlights from the Midwestern Zone

Workers compensation for workplace-related mental injuries was a topic of interest in the Midwestern Zone this year. **Missouri** enacted two bills (SB 24 and SB 186) establishing PTSD as a compensable occupational disease for first responders. **Minnesota** enacted HF 2988, which requires a study and report on workplace-related PTSD.

Legislation is pending in **Wisconsin** (AB 115/SB 113) that would add certain emergency and medical workers to the same standard of PTSD diagnosis as for law enforcement officers and full-time firefighters. Assembly Bill 115 is pending in the Assembly Workforce Development and Economic Opportunities Committee, and Senate Bill 113 is pending in the Senate Government Operations, Elections and Consumer Protection Committee. **Illinois** HB 3529 would establish a workers compensation presumption for PTSD for firefighters, paramedics, and certain emergency medical technicians.

Other states in the Midwestern Zone considered, but did not pass, mental injury compensability legislation. **Kansas** SB 165 would have permitted workers compensation for PTSD for first responders. **Oklahoma** HB 2398 and SB 333 would have included a qualified mental injury or illness sustained by a first responder as a compensable workplace injury, and **Nebraska** LB 5 addressed mental injuries or illnesses caused by workplace violence.

Minnesota also enacted legislation (HF 100) legalizing the recreational use of marijuana. Other states in the Midwestern Zone including **Kansas** (HB 2367) and **Nebraska** (LB 634) considered, but did not pass, recreational marijuana legalization bills. Voters in **Oklahoma** rejected a ballot measure to legalize marijuana in a March special election. **Ohio** recently introduced HB 168 to legalize recreational marijuana. The bill also provides that employers are not required to have employees test for marijuana in their system as a condition of the employer receiving a premium discount or rebate for participating in a drug-free workplace program. The legislation is pending in the House Finance Committee.



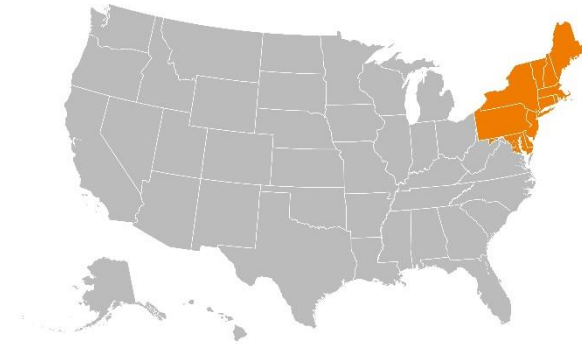
Indiana, Iowa, Kansas, and Nebraska considered legislation to legalize medical marijuana. The bills in **Kansas** (HB 2417, SB 135, SB 310) and **Nebraska** (LB 588) included language stating that workers compensation insurers are not required to reimburse for medical marijuana as a workers compensation treatment, while the **Indiana** (HB 1615) and **Iowa** (HF 442) bills were silent on reimbursement. None of these bills advanced this year.

Four states in the Midwestern Zone enacted legislation addressing gig workers. **Kansas** (HB 2020), **North Dakota** (HB 1381), and **Oklahoma** (HB 2464) enacted similar bills establishing conditions for determining when a transportation network company (TNC) driver is an independent contractor and not an employee of the TNC. **Indiana** HB 1125 addressed delivery network company (DNC) drivers, providing that a driver who connects to a DNC's digital network is an independent contractor of the DNC and the DNC is not considered to control or manage the DNC driver.

Michigan recently proposed legislation (HB 4893) to establish a single-payer health insurance program in the state. The bill, which is pending in the House Insurance and Financial Services Committee, includes a workers compensation component. In **Minnesota**, legislation (HF 2798/SF 2740, SF 3018, SF 3019, SF 3020, SF 3021) to establish a single-payer healthcare program did not pass; however, **Minnesota** enacted SF 2995 that requires a cost/benefit analysis of establishing a universal healthcare system in the state, including the costs associated with the medical portion of workers compensation.

NORTHEASTERN ZONE

The Northeastern Zone includes these jurisdictions: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.



Highlights from the Northeastern Zone

Several states in the Northeastern Zone considered legislation addressing workers compensation benefits for workplace-related mental injuries. **Connecticut** enacted SB 913 to expand workers compensation benefits for post-traumatic stress injuries to all employees. **Maryland** (HB 335/SB 406) and **Vermont** (H 292 and H 297) considered, but did not pass, legislation to create a workers compensation presumption for PTSD for certain state employees, while **Maine** proposed LD 1302 to add utility line workers to the list of employees eligible for a PTSD workers compensation presumption. Legislation is pending in **New York** and **Pennsylvania**. **New York** A 5745/S 6635 would expand workers compensation claims for mental injuries premised upon extraordinary work-related stress to all workers, and **Pennsylvania** SB 365 would provide for claims for PTSD suffered by a first responder.

On a related note, **Connecticut** proposed legislation (HB 5102) that would have allowed the use of psilocybin for medicinal and therapeutic purposes, including the provision of physical, mental or behavioral healthcare. **Connecticut** also proposed HB 6146 to fund a psychedelic assisted therapy pilot program. Both proposals failed to advance. **Massachusetts** (S 1009), **New Hampshire** (HB 328), **New Jersey** (A 4911/S 2934), **New York** (A 114/S 3520), and **Rhode Island** (H 5923) also introduced bills to legalize certain psychedelic drugs under certain conditions. Legislation is pending in **Massachusetts**, **New Jersey**, and **New York**.

The legalization of marijuana was also a topic of interest in the Northeastern Zone. **Delaware** enacted HB 1/HB 2 legalizing recreational marijuana. **New Hampshire** introduced several bills to legalize marijuana (HB 360, HB 544, HB 639, HB 643), but they did not pass. Legislation is pending in **Pennsylvania** (SB 846) that would legalize recreational marijuana and provide that reimbursement is not required for workers compensation.

However, **Pennsylvania** has introduced another bill (HB 1079) providing that reimbursement is required for medical marijuana in workers compensation under certain conditions. **Massachusetts** (H 1949) and **New York** (A 4713/S 2568) also have pending legislation providing for marijuana reimbursement in workers compensation.



Three states in the Northeastern Zone considered legislation addressing the classification of workers as employees or independent contractors. **New York** A 2085/S 2052 and **Rhode Island** S 430 would establish a three-part test for determining whether a worker is an employee or an independent contractor. **Vermont** H 337 would have created a multi-prong test to determine worker status. The **Rhode Island** and **Vermont** bills did not advance, but legislation is pending in **New York**.

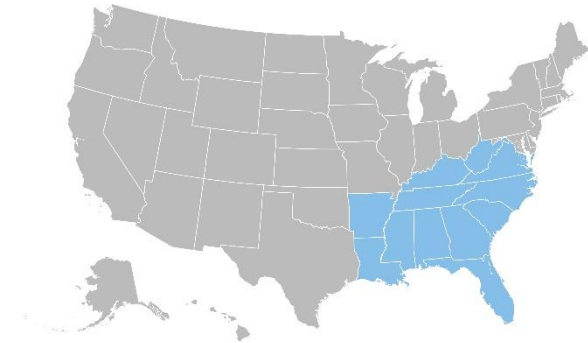
There was also COVID-19 legislative activity in the Northeastern Zone. **Massachusetts**, **Pennsylvania**, and **Rhode Island** proposed legislation to establish new COVID-19 workers compensation presumptions for certain employees. While the **Rhode Island** bill (S 824) did not advance, legislation is pending in **Pennsylvania** (HB 1431) to establish a workers compensation presumption for infectious diseases including COVID-19 for employees of a life-sustaining business or occupation. **Massachusetts** also has several bills pending: **Massachusetts** H 1895, which would establish a COVID-19 workers compensation presumption for certain healthcare employees and nonmedical employees, is pending in the Joint Labor and Workforce Development Committee. **Massachusetts** H 2528/S 1624/S 1636, which add COVID-19 to the contagious disease presumption for certain first responders, are pending in the Joint Public Service Committee. **Massachusetts** S 1176, which would establish a COVID-19 presumption for healthcare workers, is pending in the Joint Labor and Workforce Development Committee.

Four states in the Northeastern Zone proposed legislation to establish a single-payer health insurance program. The bills included a workers compensation component. **Maryland** HB 25 and **Rhode Island** H 6399/S 572 did not advance this session. **Massachusetts** H 1239/S 744 are pending in the Joint Health Care Financing Committee. **New York** A 7897 is pending in the Assembly Health Committee, and **New York** S 7590 is pending in the Senate Rules Committee.



SOUTHEASTERN ZONE

The Southeastern Zone includes these states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.



Highlights from the Southeastern Zone

Several states in the Southeastern Zone considered workplace-related mental injury legislation this year. **Tennessee** and **Virginia** enacted legislation. **Tennessee** SB 856 establishes factors for determining whether an injury is presumed to have been incurred in the line of duty for firefighters diagnosed with PTSD. **Virginia** HB 1775 and SB 904 provide that a law enforcement officer or firefighter's anxiety disorder or depressive disorder is compensable on the same basis as PTSD, with certain exceptions. **Virginia** also considered but did not pass legislation (HB 1631/SB 1088) allowing dispatchers to claim workers compensation benefits for PTSD.

Florida, **Kentucky**, **Mississippi**, and **South Carolina** considered, but did not pass, mental injury compensability legislation. **Kentucky** HB 219 would have amended the definition of "injury" to include psychological injury for certain first responders, and **Kentucky** HB 530 would have clarified the definition of "injury" to include psychological injuries experienced by educators.

Mississippi HB 1270/SB 2624 would have established a workers compensation presumption for PTSD for certain first responders. **South Carolina** S 81 and S 82 would have provided that a limitation on stress, mental injuries and mental illness for workers compensation does not apply to a first responder diagnosed with PTSD, while **South Carolina** H 3272/S 251 would have provided the requirements for a first responder to file a workers compensation claim for stress or mental injury unaccompanied by a physical injury.

Florida HB 337/SB 352 would have provided that PTSD suffered by 911 public safety telecommunicators or crime scene investigators is a compensable occupational disease. While that bill did not pass, **Florida** enacted SB 914, which authorizes PTSD diagnoses for first responders to be made through telehealth.

On a related note, **Virginia** introduced HB 1513 that would have allowed possession of psilocybin pursuant to a valid prescription or healthcare practitioner's order for treatment of certain medical and mental health conditions, such as PTSD, anxiety, and depression. The bill did not advance.



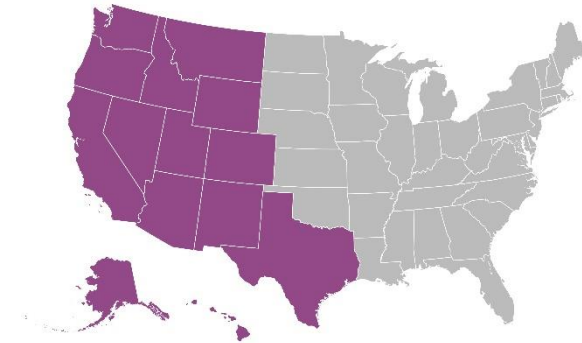
There was also activity on marijuana issues in the Southeastern Zone. **Florida** (SB 1576), **Kentucky** (HB 22, HB 48, SB 51), and **South Carolina** (S 211) introduced bills to legalize recreational marijuana, but the bills did not pass. **Kentucky** (SB 47) was the only state to legalize medical marijuana this year, although there is pending legislation in **North Carolina** (SB 3). The new **Kentucky** medical marijuana law provides that workers compensation insurers are not required to reimburse for medical marijuana. **South Carolina** considered, but did not pass, legislation (S 423) to legalize medical marijuana. Legislation failed in **Louisiana** (HB 351) that would have repealed language in the state medical marijuana law providing that workers compensation insurers are not required to reimburse for medical marijuana.

North Carolina is considering legislation (HB 541) to establish a COVID-19 workers compensation presumption for first responders, healthcare workers, and essential service workers. The bill is pending in the House Rules Committee. **South Carolina** H 3536/S 56 would have allowed employees to seek compensation for adverse health conditions or death caused by an employer-mandated COVID-19 vaccine.



WESTERN ZONE

The Western Zone includes these states: Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah, Washington, and Wyoming.



Highlights from the Western Zone

Several states in the Western Zone enacted legislation addressing workers compensation for workplace-related mental injuries. **Idaho** H 18 removed a sunset clause for workers compensation for first responders diagnosed with post-traumatic stress injury, making the provisions permanent. **Nevada** AB 410 expanded compensable stress-related injuries to include a mental injury afflicting a first responder and caused by extreme stress. **Texas** HB 90 added PTSD as a covered workers compensation injury for certain members of the Texas military forces, and **Washington** SB 5454 established a workers compensation presumption for PTSD for certain direct care registered nurses.

New Mexico considered but did not pass HB 427 which would have created a workers compensation presumption for PTSD for law enforcement officers and emergency medical services first responders.

California is considering several bills that would expand eligibility for PTSD to certain types of workers including certain first responders (AB 597/SB 623); lifeguards (AB 699); corrections employees (AB 1107); certain state nurses, psychiatric technicians, various medical and social services specialists (AB 1145); and certain acute care hospital employees (AB 1156).

Colorado and **Washington** also enacted legislation related to workers compensation and mental injuries. **Colorado** HB 23-1076 increases the limit on medical impairment benefits based on mental impairment from 12 to 36 weeks. **Washington** HB 1197 adds psychologists as attending providers for mental health-only claims.

Multiple states in the Western Zone (**California, Montana, Utah, and Washington**) proposed legislation addressing the legalization of certain hallucinogens and psychedelics. **Montana** HB 955 would have allowed the therapeutic use of psilocybin for certain mental health conditions. **Utah** introduced SB 200 that would have authorized the production and medical use of psilocybin in the state and provided that a licensed and admitted workers compensation insurer may issue coverage to a psilocybin production establishment. The bills did not advance.



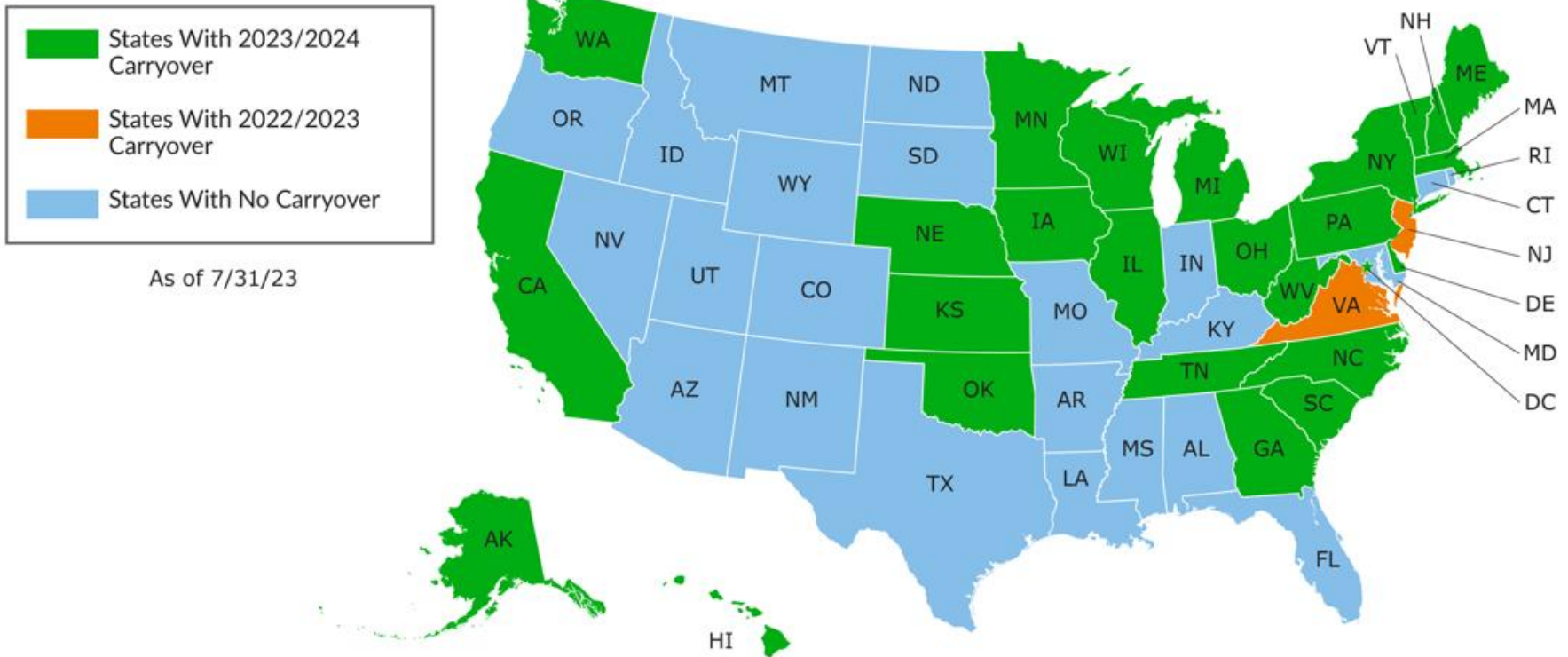
However, **California** SB 58, which would legalize certain drugs for personal use or facilitated or supported use, by and with adults 21 and older, passed the Senate and is pending in the Assembly Appropriations Committee. **Washington** enacted SB 5263 requiring a healthcare authority to establish a psilocybin task force to provide a report on psilocybin services to the governor and legislature by December 1, 2023. The bill also requires the University of Washington to establish and administer a psilocybin therapy services pilot program by January 1, 2025.

There was limited activity on marijuana legalization in the Western Zone. **Hawaii** considered several bills (HB 237/SB 375, HB 1216, HB 1425, SB 669, SB 1043) to legalize recreational marijuana in the state, but they did not pass. **Idaho** considered, but did not pass, legislation (H 370) to legalize the medical use of marijuana. The bill provided that insurers, third-party administrators, and employers are not required to pay for or reimburse for medical marijuana.

At this time, two states in the Western Zone—**California** and **Texas**—are the only states with COVID-19 workers compensation presumptions still in effect. **California's** presumption is scheduled to expire January 1, 2024, and **Texas'** presumption will expire September 1, 2023. Legislation is pending in **California** (AB 1156) that includes COVID-19 in the definitions of infectious and respiratory diseases and creates a presumption for an acute care hospital employee providing direct patient care. **Texas** introduced two bills (SB 2471 and HB 2926) to extend the expiration date of the presumption to a later date, but those bills did not pass during the regular legislation session. In addition, **Washington** introduced but did not pass HB 1785, which would have established COVID-19 as an occupational disease.



2023 LEGISLATIVE SESSIONS



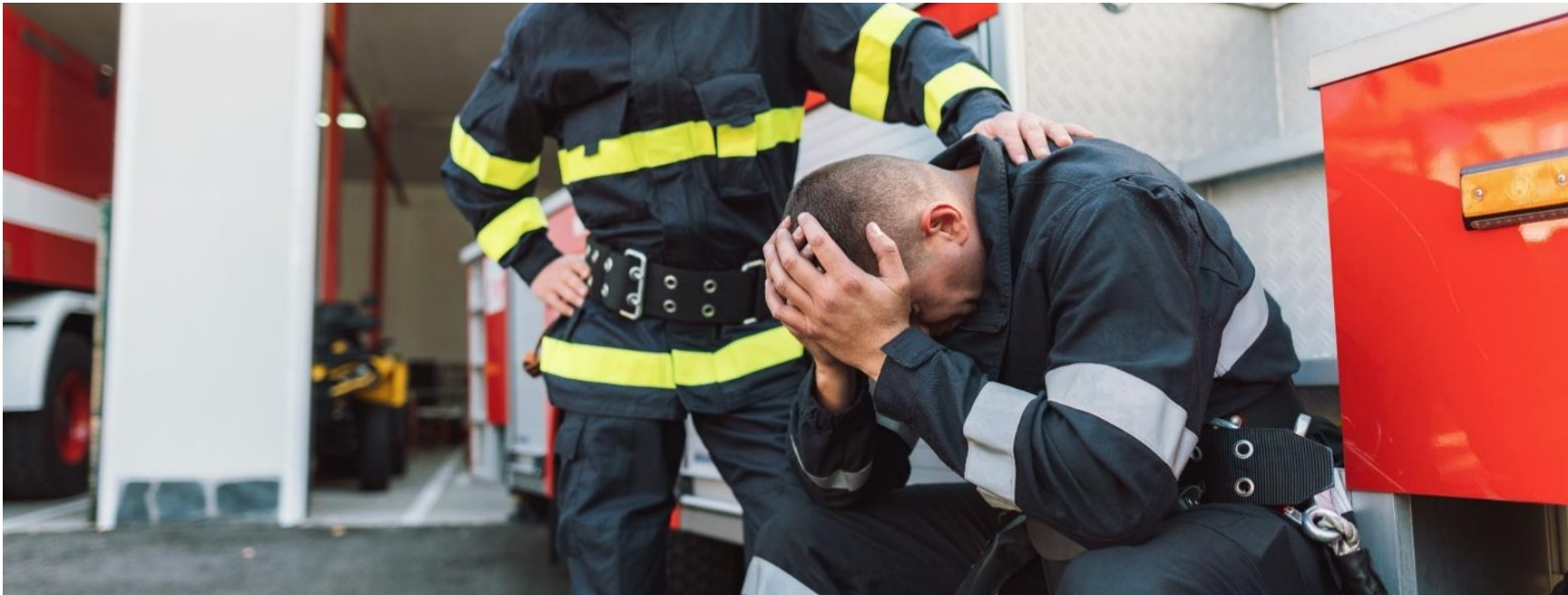
TOPICS OF INTEREST

Mental Injury-Related Legislation



NCCI monitored **86** bills addressing workers compensation for workplace-related mental injuries. This included **71** bills related to post-traumatic stress disorder (PTSD). While this has been a hot topic in workers compensation for several years, NCCI identified more bills this year addressing coverage for PTSD--primarily for first responders--than in previous years.

The majority of the mental injury bills were specific to first responders. However, some states considered legislation to expand coverage to additional types of workers, and **Connecticut** enacted legislation expanding eligibility for workers compensation benefits for post-traumatic stress injuries to all employees covered by the workers compensation law.





In addition to **Connecticut**, other states including **Idaho, Missouri, Nevada, Tennessee, Texas, Virginia,** and **Washington** enacted legislation addressing compensability for workplace-related mental injuries. These bills established workers compensation coverage for PTSD and/or other psychological injuries, expanded coverage for mental injuries to additional types of employees, and created a presumption of compensability for PTSD:

- **Connecticut** SB 913 expands eligibility for workers compensation benefits for post-traumatic stress injuries to all employees covered by the workers compensation law.
- **Idaho** H 18 removes the sunset clause for workers compensation for first responders diagnosed with post-traumatic stress injury.
- **Missouri** SB 24 and SB 186 establish post-traumatic stress disorder as a compensable occupational disease for first responders.
- **Nevada** AB 410 expands the stress-related injuries that may be compensable under certain circumstances to include a mental injury which afflicts a first responder and is caused by extreme stress for which the primary cause was witnessing an event or series of events that arose out of and during the course of employment and involved (1) the death, or aftermath of the death, of a person as a result of a violent event; or (2) an injury, or the aftermath of an injury, that involves grievous bodily harm of a nature that shocks the conscience.
- **Tennessee** SB 856 establishes a workers compensation presumption for PTSD for firefighters under these conditions: (1) directly witnessing the death of a minor, or treating the injury of a minor, who subsequently died before or upon arrival at a hospital emergency department; (2) directly witnessing an individual whose death involved a serious bodily injury of a nature that shocks the conscience; (3) responding to an event where there was a victim with a serious bodily injury that shocks the conscience; or (4) responding to an event where a responder, coworker of a responder, or family members of a responder sustained a serious bodily injury or died.
- **Texas** HB 90 adds PTSD as a covered workers compensation injury for certain members of the Texas military forces.
- **Virginia** HB 1775 and SB 904 provide that a law enforcement officer or firefighter's anxiety disorder or depressive disorder is compensable on the same basis as PTSD with certain exceptions.
- **Washington** SB 5454 establishes a workers compensation presumption for PTSD for certain direct care registered nurses.



Examples of bills that states considered to establish workers compensation coverage for PTSD and/or other psychological injuries, expand mental injury coverage to additional types of employees, or create a presumption of compensability for PTSD also include:

- **California** introduced several bills that would expand eligibility for workers compensation benefits for PTSD to certain types of workers including certain first responders (AB 597/SB 623); lifeguards (AB 699); corrections employees (AB 1107); certain state nurses, psychiatric technicians, various medical and social services specialists (AB 1145); and certain acute care hospital employees (AB 1156).
- **Florida** HB 337/SB 352 would have provided that PTSD suffered by 911 public safety telecommunicators or crime scene investigators is a compensable occupational disease.
- **Illinois** HB 3529 would establish a workers compensation presumption for PTSD for firefighters, paramedics, and certain emergency medical technicians.
- **Kansas** SB 165 would have permitted workers compensation for PTSD suffered by first responders.
- **Kentucky** HB 219 would have amended the definition of “injury” to include psychological injury for certain first responders.
- **Kentucky** HB 530 would have clarified the definition of “injury” to include psychological injuries experienced by educators.
- **Maine** LD 1302 would have added utility line workers to the list of employees eligible for a workers compensation presumption for PTSD.
- **Maryland** HB 335/SB 406 would have established a workers compensation presumption for PTSD for certain first responders.
- **Mississippi** HB 1270/SB 2624 would have established a workers compensation presumption for PTSD for certain first responders.
- **Nebraska** LB 5 would have amended the definition of “personal injury” to include mental injuries and mental illness unaccompanied by physical injury for an employee whose mental injuries or mental illness were caused by workplace violence. Workplace violence is defined as a shooting, hostage situation, act of terrorism, or similar act of violence occurring in the workplace.
- **New Mexico** HB 427 would have created a workers compensation presumption for PTSD for law enforcement officers and emergency medical services first responders.



- **New York** A 5745/S 6635 would address workers compensation claims for mental injuries premised upon extraordinary work-related stress for all workers.
- **Oklahoma** HB 2398 and SB 333 would have included a qualified mental injury or illness sustained by a first responder as a compensable workplace injury.
- **Pennsylvania** SB 365 would provide for claims for PTSD suffered by a first responder.
- **South Carolina** S 81 and S 82 would have provided that a limitation on stress, mental injuries and mental illness for workers compensation does not apply to a first responder diagnosed with PTSD. **South Carolina** H 3272/S 251 would have provided the requirements for a first responder to file a workers compensation claim for stress or mental injury unaccompanied by a physical injury.
- **Vermont** H 292 and H 297 would have established a workers compensation presumption for PTSD for certain public employees.
- **Virginia** HB 1631/SB 1088 would have allowed dispatchers to claim workers compensation benefits for PTSD.
- **Wisconsin** AB 115/SB 113 would add emergency medical responders, emergency medical services practitioners, volunteer firefighters, correctional officers, emergency dispatchers, coroners and coroner staff members, medical examiners and medical examiner staff members to the same standard of PTSD diagnosis as for law enforcement officers and full-time firefighters.

The bills in **California, Illinois, New York, Pennsylvania,** and **Wisconsin** are pending.

In addition, **Colorado, Florida, Minnesota,** and **Washington** enacted legislation related to mental injuries and workers compensation.

- **Colorado** HB 23-1076 increases the limit on medical impairment benefits based on mental impairment from 12 to 36 weeks.
- **Florida** SB 914 authorizes PTSD diagnoses for first responders to be made through telehealth.
- **Minnesota** HF 2988 requires a study and report on work-related PTSD.
- **Washington** HB 1197 adds psychologists as attending providers for mental health-only claims.



Mental Injury Compensability: 2023 Legislative Activity

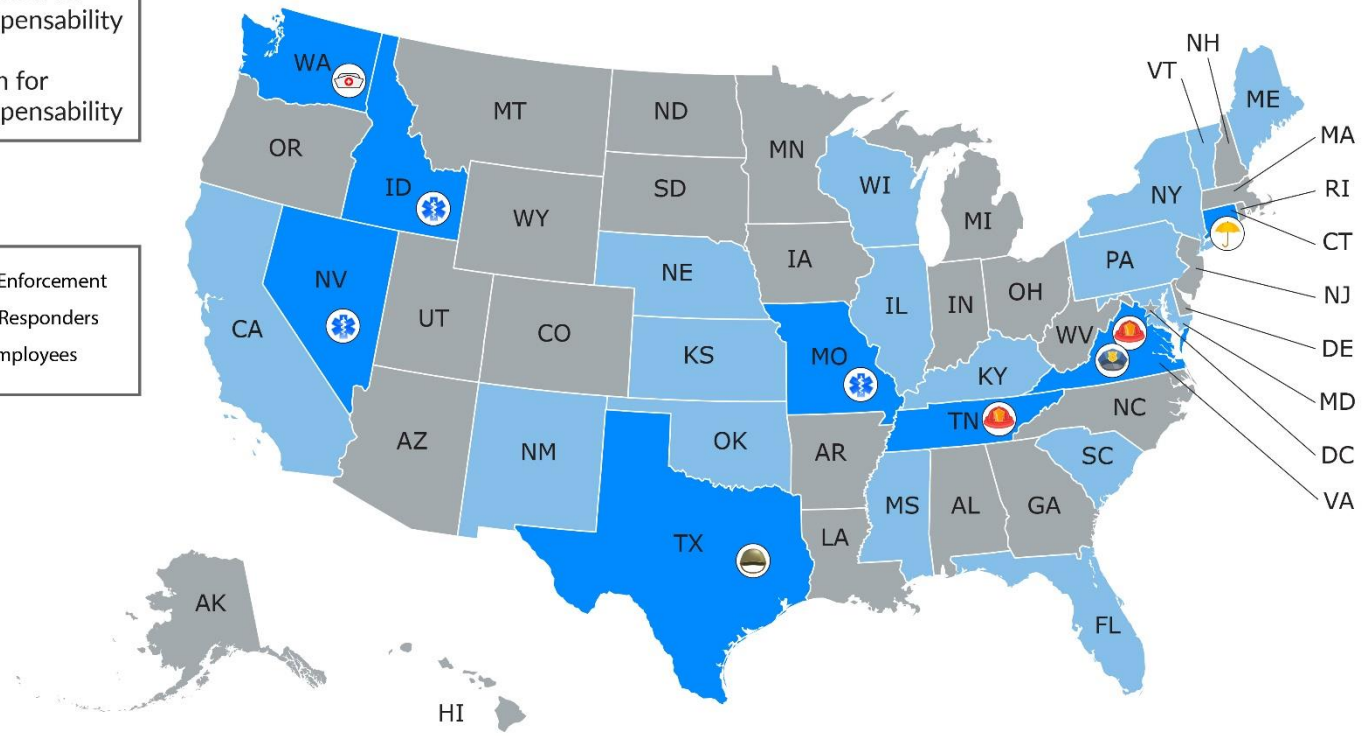
Legend for Legislative Activity:

- Light Blue: Considered Legislation for Mental Injury Compensability
- Dark Blue: Enacted Legislation for Mental Injury Compensability

As of 7/31/23

Legend for Occupational Groups:

- Firefighters (Fire icon)
- Registered Nurses (Nurse icon)
- Military (Soldier icon)
- Law Enforcement (Police icon)
- First Responders (Star icon)
- All Employees (Umbrella icon)



Hallucinogens and Psychedelics



This year, NCCI monitored a new trend arising in some states regarding the legalization of certain substances, including lysergic acid diethylamide (LSD), mescaline, psilocybin, peyote, and certain natural plant or fungus-based hallucinogens. **Colorado** and **Oregon** have legalized psilocybin in recent years. While these bills generally do not directly impact workers compensation, states are beginning to explore the use of these substances as potential treatment for certain medical and mental health conditions including PTSD.

In 2023, **11** states proposed legislation to legalize certain substances: **California** (SB 58), **Connecticut** (HB 5102), **Massachusetts** (S 1009), **Montana** (HB 955), **New Hampshire** (HB 328), **New Jersey** (A 4911/S 2934), **New York** (A 114/S 3520), **Rhode Island** (H 5923), **Utah** (SB 200), **Virginia** (HB 1513), and **Washington** (SB 5263).

In **Connecticut** (HB 5102), **Montana** (HB 955), and **Virginia** (HB 1513), the legislation would have allowed use of these substances to treat certain medical and mental health conditions such as PTSD, anxiety, and depression. However, the bills did not advance.

California SB 58 passed the Senate and is pending in the Assembly Appropriations Committee. The bill would legalize the possession, preparation, obtaining, transfer, or transportation of, specified quantities of psilocybin, psilocyn, dimethyltryptamine, ibogaine, and mescaline, for personal use or facilitated or supported use, by and with adults 21 and older.

Utah SB 200 would have authorized the production and medical use of psilocybin in the state and provided that a licensed and admitted workers compensation insurer may issue coverage to a psilocybin production establishment. This legislation did not advance.

Washington enacted SB 5263 that requires a healthcare authority to establish a psilocybin task force to provide a report on psilocybin services to the governor and legislature by December 1, 2023, and requires the University of Washington Department of Psychiatry and Behavioral Sciences to establish and administer a psilocybin therapy services pilot program by January 1, 2025.



Marijuana Legalization



Marijuana is still illegal at the federal level, but states continued to legalize it in various forms. **Delaware** (HB 1/HB 2) and **Minnesota** (HF 100) enacted legislation this year to legalize the recreational use of marijuana, while **Kentucky** (SB 47) enacted legislation to legalize medical marijuana.

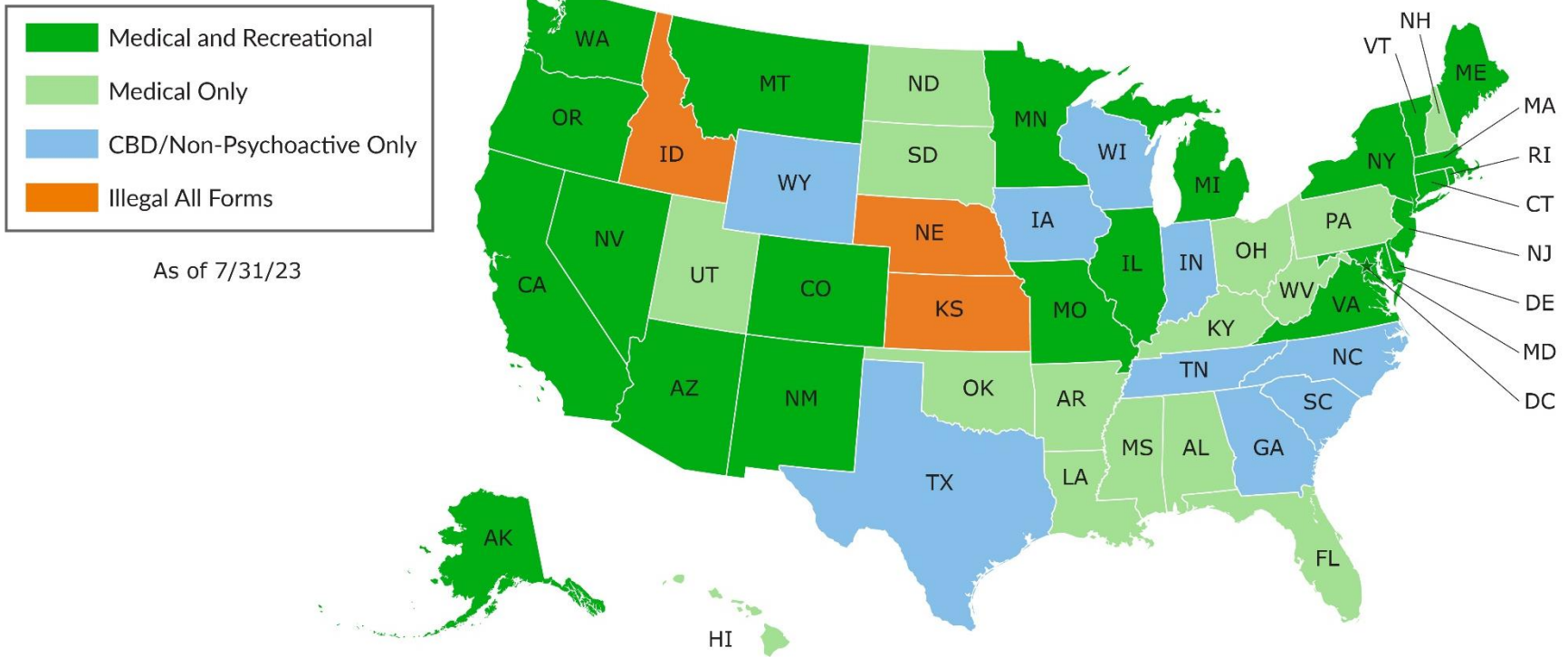
These states considered, but did not pass, proposals to legalize recreational marijuana: **Florida** (SB 1576), **Hawaii** (HB 237/SB 375, HB 1216, HB 1425, SB 669, SB 1043), **Kansas** (HB 2367), **Kentucky** (HB 22, HB 48, SB 51), **Nebraska** (LB 634), **New Hampshire** (HB 360, HB 544, HB 639, HB 643), **Oklahoma** (State Question 820), and **South Carolina** (S 211). Legislation is pending in **Ohio** (HB 168) and **Pennsylvania** (SB 846).

These states considered, but did not pass, proposals to legalize medical marijuana: **Idaho** (H 370), **Indiana** (HB 1615), **Iowa** (HF 442), **Kansas** (HB 2417, SB 135, SB 171, SB 310), **Nebraska** (LB 588), and **South Carolina** (S 423). Legislation is pending in **North Carolina** (SB 3).





2023 Marijuana Legalization Status



Marijuana Reimbursement



State legislatures continue to debate the issue of reimbursement for marijuana as a workers compensation treatment. This year, most of the state proposals to legalize marijuana contained provisions that reimbursement for workers compensation is NOT required. To date, **Kentucky** is the only state to enact legislation this year addressing marijuana reimbursement. **Kentucky** enacted SB 47, which legalizes the medical use of marijuana and provides that nothing in the new law requires a workers compensation carrier or self-funded employer providing workers compensation benefits to reimburse a person for costs associated with the medical use of marijuana. **North Carolina** (SB 3) and **Pennsylvania** (SB 846) are considering legislation with similar provisions.

However, legislation is pending in **Massachusetts** (H 1949) and **Pennsylvania** (HB 1079) that would allow reimbursement for medical marijuana in workers compensation. **New York** is considering legislation (A 4713/S 2568) that would deem medical marijuana a prescription drug for workers compensation purposes.

These states considered, but have not passed, legislation providing that workers compensation insurers **are not required** to reimburse for medical marijuana:

- **Idaho** introduced H 370 to legalize medical marijuana. The bill included a provision stating that nothing in the new law requires an insurer, a third-party administrator, or an employer to pay for or reimburse medical marijuana.
- **Kansas** introduced multiple bills (HB 2417, SB 135, SB 310) to legalize medical marijuana. These bills included provisions stating that nothing in the new law would require workers compensation insurers or self-insured employers providing workers compensation benefits to reimburse a person for costs associated with the medical use of marijuana; nothing will affect an employer's ability to implement policies to promote workplace health and safety by restricting the use of marijuana by employees.
- **Nebraska** introduced LB 588 to legalize medical marijuana. The bill includes language that nothing in the act requires an employer to permit or accommodate the growing, possession, consumption, use, distribution, display, transfer, transportation, or sale of marijuana; affects the ability of an employer to restrict the use of marijuana by employees; requires any employer to accommodate the medical use of marijuana; or requires any employer or workers compensation insurer to reimburse a person for costs associated with the medical use of marijuana.



- **North Carolina** introduced SB 3 to legalize medical marijuana. The bill provides that nothing in the act shall be construed to require a property and casualty insurer to be liable for or reimburse a claim for the medical use of marijuana; and consultations in which physicians diagnose debilitating medical conditions and complete written certifications shall be reimbursed consistent with any other visit to a healthcare facility. The bill passed the Senate and is pending in the House Health Committee.
- **Pennsylvania** introduced SB 846 to legalize recreational marijuana. The legislation provides that no workers compensation insurer or self-insured employer is required to provide coverage for or otherwise reimburse the cost of medical marijuana. The bill is pending in the Senate Law and Justice Committee.
- **South Carolina** introduced S 423 to legalize medical marijuana. The legislation states that nothing in the bill requires a property and casualty insurer to be liable for or reimburse a claim for the medical use of marijuana, and consultations in which physicians diagnose debilitating medical conditions and complete written certifications shall be reimbursed consistent with a qualifying patient's health plan design.

These states considered, or are considering, legislation that **requires** workers compensation coverage for medical marijuana treatment under certain circumstances:

- **Louisiana** HB 351 would have repealed language in the state medical marijuana law which provides that workers compensation insurers are not required to reimburse for medical marijuana. The bill was amended to remove this language and did not pass.
- **Massachusetts** H 1949 requires workers compensation insurers to pay for reasonable and necessary service costs, which may include reimbursement for medical marijuana provided to injured employees who are qualifying patients or their personal caregivers. The bill is pending in the Joint Committee on Labor and Workforce Development.
- **New York** A 4713/S 2568 deems medical marijuana to be a prescription drug for workers compensation purposes. Assembly Bill 4713 is pending in the Assembly Ways and Means Committee and Senate Bill 2568 is pending in the Senate Health Committee.
- **Pennsylvania** HB 1079 would require an employer to reimburse a qualifying patient who obtains medical marijuana for certified medical use. The bill is pending in the House Labor and Industry Committee.



Independent Contractors/Gig Economy



States continued to debate legislative proposals to provide criteria for determining whether a worker is classified as an employee of a company or as an independent contractor. This year, two states considered legislation to establish a test for determining worker status, similar to California’s three-part test (also known as the ABC test).

- **New York** A 2085/S 2052 would create a three-part test to determine whether a worker is an employee or an independent contractor. Assembly Bill 2085 is pending in the Assembly Labor Committee and Senate Bill 2052 is pending in the Senate Labor Committee.
- **Rhode Island** S 430 would have created a three-part test to determine whether a worker is an employee or an independent contractor. The bill was held in the Senate Labor Committee.

In addition, **Vermont** H 337 would have created a multi-prong test for determining whether a worker is an employee or an independent contractor. The bill did not advance.

Gig workers, including transportation network company drivers who work for Uber and Lyft, as well as other marketplace contractors, were the focus of legislation in several states during the 2023 legislative session. These states enacted legislation:

- **Indiana** HB 1125 provides that after June 30, 2024, a delivery network company (DNC) driver who connects to a DNC’s digital network is an independent contractor of the DNC, and the DNC is not considered to control or manage the DNC driver.
- **Kansas** HB 2020 establishes conditions to determine when a transportation network company (TNC) driver is an independent contractor and not an employee of the TNC.
- **North Dakota** HB 1381 establishes conditions to determine when a transportation network company (TNC) driver is an independent contractor and not an employee of the TNC.
- **Oklahoma** HB 2464 establishes conditions to determine when a transportation network company (TNC) driver is an independent contractor and not an employee of the TNC.



COVID-19 Workers Compensation Legislation



Since the start of the pandemic, NCCI has monitored hundreds of bills related to COVID-19 and workers compensation. Over the past few years, several states enacted legislation to establish workers compensation presumptions for COVID-19 for certain workers. Generally, these are presumptions that an employee's exposure to, or contraction of, COVID-19 is work-related or is a compensable injury or disease. Most of these presumptions contained expiration dates or sunset provisions tied to the end of the state of emergency or another specified date.

California and **Texas** still have COVID-19 workers compensation presumptions in effect in 2023. Currently, **California's** presumption expires January 1, 2024, and **Texas** expires September 1, 2023. Both states introduced COVID-19 presumption legislation this year:

- **California** A 1156 includes COVID-19 in the definitions of infectious and respiratory diseases and establishes presumptions for acute care hospital employees providing direct patient care. The bill is pending in the Assembly Insurance Committee.
- **Texas** introduced two bills to extend the expiration date for the COVID-19 workers compensation presumption for certain public safety employees. Senate Bill 2471 would have extended the expiration date from September 1, 2023, to September 1, 2027, and House Bill 2926 would have extended the expiration date to September 1, 2025. Neither bill passed during the regular legislative session.

States including **Massachusetts**, **North Carolina**, **Pennsylvania**, and **Rhode Island** proposed legislation to establish a new COVID-19 workers compensation presumption for certain workers.

- **Massachusetts** H 1895 would establish a COVID-19 workers compensation presumption for healthcare employees and nonmedical employees at hospitals, chronic disease rehabilitation centers, nursing homes, rest homes, community health centers, psychiatric hospitals, outpatient healthcare facilities, healthcare employees working in prisons and correctional facilities, at-home certified nursing assistants, at-home personal care assistants, emergency medical technicians, and paramedics. The bill is pending in the Joint Labor and Workforce Development Committee.





- **Massachusetts** H 2528/S 1624/S 1636 would include COVID-19 in the definition of contagious disease workers compensation presumption for a full-time uniformed member of a paid police department, fire department, or municipal emergency medical service. The bills are pending in the Joint Committee on Public Service.
- **Massachusetts** S 1176 would establish a COVID-19 workers compensation presumption for healthcare workers. The bill is pending in the Joint Labor and Workforce Development Committee.
- **North Carolina** HB 541 would establish a COVID-19 workers compensation presumption for first responders, healthcare workers, and essential service workers. The bill is pending in the House Rules Committee.
- **Pennsylvania** HB 1431 would establish a workers compensation presumption for infectious diseases including COVID-19 for employees of a life-sustaining business or occupation. The bill is pending in the House Labor and Industry Committee.
- **Rhode Island** S 824 would have established a COVID-19 workers compensation presumption for public safety officials, essential state workers and other enumerated employees. The bill was held in the Senate Labor Committee.

In addition, **Washington** introduced HB 1785 to establish COVID-19 as an occupational disease. The bill did not advance out of the House Labor and Workplace Standards Committee.

States including **Rhode Island**, and **South Carolina** introduced legislation addressing workers compensation for COVID-19 vaccine-related injuries. The bills did not pass.

- **Rhode Island** H 5585/S 421 would have required an employer's workers compensation insurance carrier to cover all of an employee's associated medical expenses from any adverse medical event resulting from an employer-mandated COVID-19 vaccine.
- **South Carolina** H 3536/S 56 would have allowed employees to seek compensation for adverse health conditions or death caused by an employer-mandated COVID-19 vaccine.

Single-Payer Health Insurance



The concept of a single-payer health insurance system has been discussed at both federal and state levels for years. To date, no state has fully implemented such an approach; however, several jurisdictions are studying the issue. Of particular interest are bills that include a reference to workers compensation. Most of these bills contain similar language directing the board of the single-payer healthcare program to develop a proposal addressing healthcare items and services currently covered under the workers compensation system, including whether and how to:

- continue funding for those healthcare services currently covered by the workers compensation system, and
- incorporate an element of experience rating.

In 2023, 10 states (**Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, and Rhode Island**) introduced legislation to establish a single-payer health insurance system. The bills in **Maryland, Massachusetts, Michigan, Minnesota, New York, and Rhode Island** include a workers compensation component.





- **Maryland** HB 25 would have established the Healthy Maryland Program to provide comprehensive universal single-payer healthcare services in the state. The bill would have required the new program’s board to develop a proposal for coverage of health-care services currently covered under the state workers compensation system—including whether and how to continue funding for those services under the workers compensation system—and incorporate an element of experience rating. The bill did not advance out of the House Health and Government Operations Committee.
- **Massachusetts** H 1239/S 744 would establish a Medicare for all system in the state. The bills exclude workers compensation benefits from the provisions taxed as funding sources for the new system and include workers compensation policies within the definition of “collateral source.” The bills are pending in the Joint Health Care Financing Committee.
- **Michigan** HB 4893 would establish a universal single-payer healthcare program in the state. The bill requires the new program’s board to study the feasibility of replacing health coverage currently provided under the workers compensation act with the new program’s coverage. House Bill 4893 is pending in the House Insurance and Financial Services Committee.
- **Minnesota** introduced several bills (HF 2798/SF 2740, SF 3018, SF 3019, SF 3020, SF 3021) to establish the Minnesota Health Plan and include the medical component of workers compensation within the definition of collateral source. None of these bills advanced.
- **New York** A 7897/S 7590 would establish a single-payer healthcare program in the state. The companion bills require the board of the new healthcare program to develop a proposal for healthcare services covered under the workers compensation law. This includes whether and how to continue funding those services under that law and incorporate an element of experience rating. Assembly Bill 7897 is pending in the Assembly Health Committee, and Senate Bill 7590 is in the Senate Rules Committee.
- **Rhode Island** H 6399/S 572 would have created a universal single-payer healthcare program. The legislation required the new program’s director to develop procedures for accommodating coverage of healthcare services covered under the workers compensation system. The bills were held in committee.

While the **Minnesota** bills above (HF 2798/SF 2740, SF 3018, SF 3019, SF 3020, SF 3021) did not advance, **Minnesota** enacted SF 2995, which requires an analysis of the costs and benefits of establishing a universal healthcare system in the state, including the costs associated with the medical portion of workers compensation.



APPENDIX

These links provide related resources on [ncci.com](https://www.ncci.com).

- [Legislative Activity Page](#)
- [COVID-19 and Workers Compensation Resource Center](#)
- [Court Case Insights](#)
- [State Advisory Resources](#)
- [State Insight*](#)
- [Frequency and Severity Results by State](#)
- [Voluntary Loss Cost/Rate Filing Information by State*](#)
- [Underwriting Results by State](#)
- [Residual Market Management Summary 2022](#)
- [Residual Market State Activity Reports](#)
- [Circulars*](#)

**Content requires authentication.*

This report is provided solely as a reference tool to be used for informational purposes only. This report is provided “As Is” and includes information available at the time of publication only. NCCI does not guarantee the accuracy or completeness of information provided herein nor does NCCI assume any liability that may result from your reliance upon such information. NCCI hereby expressly disclaims any and all warranties of any kind. The information in this report shall not be construed or interpreted as providing legal or any other advice. Use of this report for any purpose other than as set forth herein is strictly prohibited.