

WORKERS' COMPENSATION COMPLIANCE

# Summary of legislative and regulatory changes

*November 2021*

**TABLE OF CONTENTS**

Alaska..... 3

New York..... 4

    Senate Bill 1022/Assembly Bill 6466 ..... 4

Oregon ..... 5

    Industry notice on House Bill 3188 related to changes in coverage requirements ..... 5

Texas ..... 6

    Adopts rule related to methods to conduct a benefit review conference..... 6

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# Alaska

On Nov. 23, 2021, an order adopting permanent changes to several workers' compensation provisions of the Alaska Administrative Code (AAC) was filed. Click [here](#) to review the order. Following are highlights of the amended workers' compensation provisions:

- 8 AAC 45.093, pertaining to qualifying medical examinations for certain firefighters, is updated to clarify which forms must be used for certain parts of a medical examination.
- 8 AAC 45.136 now states that the notice of a modification of compensation must be submitted electronically through electronic data interchange (EDI), and the division will notify the employee of the commencement, termination, and any other modification of compensation payments. This rule will also clarify that "filed" means that the required forms are submitted using EDI and followed by a "Transaction Accepted" acknowledgement from the jurisdiction.
- 8 AAC 45.174, pertaining to uninsured employers, is amended to state that an employer may challenge issuance of a stop order by filing a petition requesting a board hearing in failure-to-insure cases.
- Repeals 8 AAC 45.184, relating to executive officer waivers that no longer have statutory authority.
- 8 AAC 45.210, pertaining to weekly compensation rates, replaces an outdated rate of pay equation with an updated calculation that properly reflects the statute and to update language to reflect current electronic data interchange (EDI) procedures. According to the amended rule, one way for an employee to furnish documentary proof of wages is if the employee gives the employer a written earnings statement, prepared by an employer, or a copy of a tax return filed with the Internal Revenue Service showing the employee's earnings for the proper time period for purposes of making the calculations under AS 23.30.220(a).
- Amends 8 AAC 45.900, relating to definitions to match statutory language. Namely this rule changes the word "bonus" under 8 AAC 45.900(d) to "bonuses" and the word "misclassified" to "misclassifies" under 8 AAC 45.900(k).

These regulations become effective Dec. 23, 2021.

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# New York

## *Senate Bill 1022/Assembly Bill 6466*

On Nov. 15, 2021, Gov. Kathy Hochul signed [Senate Bill 1022/Assembly Bill 6466](#) into law. This legislation adds a new section to the workers' compensation law that requires the New York State Workers' Compensation Board to:

- Provide translation of all documents and forms used by or issued to injured employees in the 10 most common non-English languages spoken by individuals with limited-English proficiency in the state of New York.
- Provide interpretation services to injured employees with respect to its provision of services, information and/or benefits.
- Publish a language access plan.

This legislation takes effect on the 90th day after it becomes law, or Feb. 13, 2022. The bill authorizes the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this legislation on or before the effective date.

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# Oregon

## *Industry notice on House Bill 3188 related to changes in coverage requirements*

On Nov. 29, 2021, the Workers' Compensation Division published an [industry notice about House Bill 3188](#) (2021), which amends coverage requirements under Oregon workers' compensation law effective Jan. 1, 2022 in several important ways.

### **New casual labor requirements**

Casual labor is labor that costs less than a certain amount. If an employer's total payroll is always below this amount within any 30-day period, the employer is not required to provide workers' compensation coverage.

**Beginning Jan. 1, 2022, the costs that will be considered casual increases from \$500 to \$1,000.**

### **New definition of worker**

Starting Jan. 1, 2022, a worker will be defined as any person who performs services for remuneration and is not an independent contractor. Under this new definition, some people who do not qualify as workers under current law may newly qualify as workers because even if free from direction and control, they may not qualify as an independent contractor if they do not satisfy all of the other requirements.

Failure to provide workers' compensation coverage when required can result in substantial penalties. Click [here](#) to review House Bill 3188 as enacted.

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# Texas

## *Adopts rule related to methods to conduct a benefit review conference*

On Nov. 22, 2021, the Texas Division of Workers' Compensation (DWC) [announced the adoption amendments to the rule related to requesting and setting](#) a benefit review conference (BRC) to the provisions of House Bill 175, which became effective June 4, 2021. Click [here](#) to view a summary of House Bill 1752 from our June update.

The adopted amendments:

- Change the name from “site” to “method of conducting.”
- Add video conference as a way that the DWC can conduct a BRC.
- Add a requesting party’s showing of good cause as a condition to DWC conducting a BRC in person.

This rule was published in the Dec. 3, 2021 issue of the Texas Register and became effective Dec. 9, 2021. A copy of the adopted rule can be found [here](#).

The Information contained within this document is intended to provide summary level information on proposed or enacted laws related to workers' compensation. It is not intended to provide guidance on the application of these legal requirements or as an update to your Company's workers' compensation policies. We recommend you consult with Legal Counsel to determine what changes, if any, should be applied to Company Policy.

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