

WORKERS' COMPENSATION COMPLIANCE

# Summary of legislative and regulatory changes

*July 2022*

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# Alaska

## *Senate Bill 131*

On July 30, 2022, Alaska Gov. Mike Dunleavy signed [Senate Bill 131](#), which expands the types of cancers presumed to be compensable for firefighters to include breast cancer, and it increases workers' compensation permanent partial impairment and death benefits payable.

Highlights of the bill include:

- Defines firefighter for purposes of the presumption of compensability for specified cancers as:
  - Employed by a state or municipal fire department; or
  - A member of a volunteer fire department registered with the state fire marshal; or
  - A person registered for purposes of workers' compensation with the state fire marshal as a member of a volunteer fire department.
- Relating to the payment of workers' compensation benefits in the case of permanent partial impairment, this bill increases the compensation by which the employee's percentage of permanent impairment is multiplied from \$177,000 to \$273,000.
- Increases amounts payable for the following death benefits:
  - Maximum for reasonable and necessary funeral expenses maximum increases from \$10,000 to \$12,000.
  - The cap on aggregate death benefits for the support of father, mother, grandchildren, brothers and sisters if dependent on the deceased at the time of injury and there is no widow or children increased from \$20,000 to \$150,000.
  - Amount to a surviving widow or widower or divided among surviving children of the deceased if there is no widow or widower from \$5,000 to \$8,000.

The bill applies to claims made on or after Jan. 1, 2023.

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# Arizona

## *House Bill 2120*

On July 6, 2022, Gov. Doug Ducey signed [House Bill 2120](#) into law. This bill modifies requirements relating to occupational safety and health standards adopted by the Industrial Commission of Arizona (ICA) and workers' compensation claims. Key provisions of this bill include:

- Allows the ICA to provide for emergency temporary standards or regulations if the ICA or the United States Occupational Safety and Health Administration (OSHA) determines that employees are exposed to a grave danger.
- Subjects any employer that willfully or repeatedly violates adopted or emergency safety and health standards to a civil penalty between the minimum and maximum amounts adopted by OSHA, rather than between \$5,000 and \$70,000, for each violation.
- Subjects any employer that has received a citation for a serious violation relating to safety and health standards to a civil penalty up to the maximum amount adopted by OSHA, rather than up to \$7,000 for each violation.
- Subjects any employer that fails to correct a violation for which a citation has been issued within the abatement period allowed for its correction to a civil penalty up to the maximum amount adopted by OSHA, rather than up to \$7,000 for each day during which the failure or violation continues after the abatement date.
- Subjects any employer that violates any of the safety and health standards posting requirements to a civil penalty up to the maximum amount adopted by OSHA in accordance with federal law, rather than up to \$7,000, for each violation.
- Narrows the type of injuries that must be included in a workers' compensation injury report by an employer and a physician to injuries requiring medical treatment.
- Stipulates that medical treatment does not include any one-time, short-term treatment by non-medical staff that requires little technology or training to administer, including the treatment of minor scratches, cuts, burns and splinters and other issues that ordinarily do not require medical care.
- Requires any experience rating adjustment, for workers' compensation claims involving medical-only loss, to be applied to reduce the impact of the loss in the employer's experience modification rating.
- Defines medical-only loss as a loss that has no indemnity value reflecting lost wages.
- Makes technical changes.

This bill becomes effective Sept. 24, 2022.

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# California

The 2022 session of the California State Legislature is scheduled to adjourn on Aug. 31, 2022. Following is an overview of the bills that have been passed and signed into law to date.

## *Assembly Bill 2148*

Gov. Gavin Newsom approved [Assembly Bill 2148](#) on July 19, 2022. This bill extends the sunset date until Jan. 1, 2024, on a pilot program that allows workers' compensation indemnity payments due to employees to be deposited on a prepaid card or prepaid card accounts.

California lawmakers in 2018 enacted Senate Bill 880 that defined "prepaid card" or "prepaid card account" and permitted their use if specific requirements were met until Jan. 1, 2023.

Assembly Bill 2148 did not modify other provisions from the 2018 bill.

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# Idaho

## *Changes to Judicial Rule of Practice and Procedures adopted*

The Idaho Industrial Commission adopted changes to Rule 18 of the [Judicial Rules of Practice and Procedures \(JRP\)](#) effective July 1, 2022, to implement the provisions of House Bill 590 signed by Gov. Little on March 23, 2022. Click [here](#) to view a summary of this bill that significantly modified the settlement process.

The rule outlines the formatting and content requirements of settlement agreements for parties that do and do not have legal representation, as well as the process for submitting such agreements. Settlement agreements that do not comply with the provisions of the rule will be rejected and deemed not filed.

The rule further explains that a settlement agreement meeting the requirements listed in the rule constitute a final decision of the Commission effective the date of filing.

## *Requirement for itemization of unpaid medical bills at time of settlement repealed*

The Idaho Industrial Commission has temporarily adopted an amendment to the [rule governing approval of attorney fees](#) to repeal the requirement that a claimant's attorney file with the Commission an affidavit or memorandum that includes counsel's itemization of unpaid medical bills for the claim.

This change is proposed because with the enactment of House Bill 590, the Industrial Commission will no longer be responsible for approval of settlements in most cases. Accordingly, the Commission no longer has an interest in requiring claimants to specify how unpaid medical bills will be treated at the time of settlement.

The temporary rule was effective July 1, 2022.

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# New Hampshire

The New Hampshire legislature adjourned its 2022 session on May 26, 2022. Following is the summary of a workers' compensation bills signed into law by Gov. Chris Sununu on July 8, 2022.

## *House Bill 91*

[House Bill 91](#) provides a line of duty death benefit to police officers, firefighters, emergency medical technicians and rescue squad members who die by suicide after being exposed to traumatic events in the course of their duties.

This bill includes a contingency regarding the effective date if [House Bill 536](#) passes, which added public work employees to the above list of first responders who are eligible to receive the death benefit. Because House Bill 536 became law on July 1, 2022, the law becomes effective 60 days after passage or Sept. 6, 2022.

## *Senate Bill 357*

[Senate Bill 357](#) reestablishes the commission to study incidence of post-traumatic stress disorder (PTSD) in first responders and ensures that mental health training is available for first responders, law enforcement, fire service, emergency medical service and corrections personnel.

The Commission is required to submit an interim report of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor and the state library on or before Nov. 1, 2022. A final report must be submitted on or before Nov. 1, 2023.

This bill becomes effective Sept. 6, 2022, except the mental health training requirements become effective Nov. 1, 2023.

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# North Carolina

## *Senate Bill 496*

On July 7, 2022, Gov. Roy Cooper signed [Senate Bill 496](#), which made clarifying changes to various insurance laws as recommended by the Department of Insurance, including PEO notification requirements.

The bill became effective upon enactment, unless otherwise specified.



# Rhode Island

## *House Bill 8259/Senate Bill 2977*

On June 28, 2022, Gov. Daniel McKee signed [House Bill 8259/Senate Bill 2977](#) into law. This legislation makes the following changes to various workers' compensation statutes:

- Requires Medicare set aside allocations, specific compensation benefits and collective bargaining agreement benefits be subtracted from the list of deductions/offsets from teacher death or disability benefits.
- Establishes an option to resolve a dispute over the equitable division of legal fees awarded by the court for legal services rendered on behalf of the same injured employee.
- Allows a workers' compensation trial judge who entered a decree to extend the time for filing the claim of appeal by any party for a period not to exceed 30 days from the expiration of the original time, upon a showing of excusable neglect.
- Preserves the rights and obligations to pursue a third-party claim to the benefit of the employee and the Rhode Island Uninsured Protection Fund.

The bill took effect upon passage.

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# Legislation to Watch

## *California*

The 2022 session of the California State Legislature is scheduled to adjourn on August 31, 2022. Following are some of the bills being closely monitored for further action by the legislature before the session ends.

### *Senate Bill 1127*

[Senate Bill 1127](#) was passed by the Senate and is now being considered by the Assembly. If passed, this bill:

- Requires that for presumptive injuries for first responders such as hernias, pneumonia or a heart condition, if liability for a claim is not rejected within 75 days, the injury is considered compensable. Currently the decision must be made within 90 days.
- Requires that when liability has been found to be unreasonably rejected by an employer for presumptive injuries, the employer must pay a penalty equal to five times the amount of the delayed benefits. This amount cannot exceed \$50,000 but is otherwise up to the discretion of the Workers' Compensation Appeals Board in accordance with the facts.
- Increases the maximum time specified firefighters and peace officers can access wage replacement disability benefits for cancer work-related injuries from 104 weeks within five years to 240 weeks.

The Assembly analysis of the bill indicates the costs are undeterminable, but likely significant to the California Division of Workers' Compensation (DWC).

### *Senate Bill 284*

On Aug. 16, 2022, [Senate Bill 284](#) was brought back from the Assembly inactive file and passed with an amendment to change the application date. If the Senate concurs with the amendment, this bill:

- Extends the disputable presumption that a diagnosis of post-traumatic stress disorder (PTSD) for specified peace officers and firefighters to firefighters employed by the State Department of State Hospitals, the State Department of Developmental Services, the Military Department and the Department of Veterans Affairs.
- Extends this PTSD presumption to public safety dispatchers, public safety telecommunicators and emergency response communication employees specified.
- Defines "public safety dispatcher," "public safety telecommunicator" or "emergency response communication employee" as an individual employed by a public safety agency whose primary responsibility is to receive, process, transmit or dispatch emergency and nonemergency calls for law enforcement, fire, emergency medical

and other public safety services by telephone, radio or other communication device, and includes an individual who supervises other individuals who perform these functions.

According to the [Office of Senate Floor Analyses](#), by adding four new departments and three new job classifications to the existing rebuttable presumption, this bill would likely increase workers' compensation costs for those departments and for other departments and local agencies with employees in the newly added job classifications.

## *Assembly Bill 1751*

[Assembly Bill 1751](#) has passed the Assembly and is awaiting a final vote in the Senate. If passed, this bill extends the sunset date of the workers' compensation COVID-19 presumptions provided in Senate Bill 1159 to Jan. 1, 2025.

Assembly Bill 1751 also clarifies that an "outbreak" exists if community college district chancellors, school presidents and school superintendents order a school to close due to risk of infection by COVID-19.

The presumptions are set to expire at the end of the year if this bill does not pass.

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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800.625.6588

[Sedgwick@sedgwick.com](mailto:Sedgwick@sedgwick.com)

[SEDGWICK.COM](https://www.sedgwick.com)