



workers' compensation compliance

# Summary of legislative and regulatory changes

January 2020

---

## Table of contents

New Jersey .....	1
Assembly 1110/Senate 782 .....	1
Assembly 1697/Senate 3036 .....	2
Oregon .....	3
New employer/insurer coverage responsibility regulations adopted .....	3
Texas .....	4
Rules adopted to implement Senate Bill 2551 .....	4
Legislation to watch .....	5
Alaska .....	5

## New Jersey

### Assembly 1110/Senate 782

On January 21, 2020, New Jersey Governor Phil Murphy signed two workers' compensation bills into law that were passed during the 2018-2019 legislative session. Both bills, listed below, became effective immediately.

[Assembly 1110/Senate 782](#) increase the amount of workers' compensation benefits paid for injuries producing loss of function to the hand or foot. Prior to the bill's passage, an injury producing loss of function of 1% of the hand is compensated with 2.45 weeks. Under the new law, such an injury is now compensated at **2.6 weeks**. Similarly, under current law an injury producing loss of function of 1% of the foot is compensated with 2.3 weeks. Under the new law, each percent of loss of function of the foot is now compensated at **2.5 weeks**.

In the event of more serious hand and foot injuries, the new law creates an increased number of weeks once an award is found to produce the **threshold loss of function equal to or greater than 25%**. Each percentage of the hand is compensated at 3 weeks instead of 2.6 weeks for a loss of function of 25% or greater of the hand. Each percentage of the foot is compensated at 2.85 weeks instead of 2.5 weeks for a loss of function.

Additional noteworthy provisions included in this bill follow:

- Clarifies that an award of permanent total disability does not bar an additional amount from being added to an amputation award, and the amount of this additional award is not subject to a subrogation lien
- Increases from \$3,500 to \$5,000 for the remaining amount to be paid to the deceased person's dependents or, if no dependents, the amount to be paid for burial or funeral expenses in the case of the death of a person receiving payments for permanent injury
- Requires the Commissioner of Labor and Workforce Development to study, in consultation with the Commissioner of Banking and Insurance, the state's workers' compensation system and make recommendations that will help foster and maintain an efficient, effective and well-balanced workers' compensation program that is equally responsive to the needs of both the state's workforce and the employer community. The commissioner will submit a study, with recommendations, to the governor and the legislature in one year and every five years thereafter

## New Jersey

### Assembly 1697/Senate 3036

This [bill](#) prohibits a provider to an injured worker of authorized medical, surgical, other treatment or hospital service from reporting any portion of their charges that are alleged to be unpaid, to any collection or credit reporting agency, bureau or data collection facility except as follows:

- A judge of compensation within the Division of Workers' Compensation (DWC) has fully adjudicated the rights and liabilities of all parties, including the rights of the claimant for medical payments, or
- An order approving settlement regarding the payment of these charges has been filed with the court

If a medical provider is found to be non-compliant with the provisions of this bill, a judge of compensation within the DWC may:

- Order the non-compliant provider to retract the medical charges reported to the collection or credit reporting agency, bureau, or data collection facility
- Impose a fine on the non-compliant provider, not to exceed \$5,000, payable to the Second Injury Fund
- Order the non-compliant provider to pay a reasonable counsel fee in connection with a claimant for medical payments who has suffered damage to credit rating due to the reporting of unpaid medical, surgical, other treatment or hospital service charges to a collection or credit reporting agency, bureau or data collection facility
- Order the non-compliant provider to take such steps as are necessary, within 30 days of the order, to rehabilitate the credit record of a claimant, with a showing made to the court of the efforts made in that regard
- Order a non-compliant provider to pay an award of damages to the claimant not to exceed 25% of the medical, surgical, other treatment or hospital service reported by the non-compliant provider to the collection or credit reporting agency, bureau or data collection facility — with the minimum award being \$350

It is anticipated that this legislation will provide protections for New Jersey injured workers.

## Oregon

### Employer/insurer coverage responsibility rules

Effective January 1, 2020

The Oregon Department of Business Services, Workers' Compensation Division issued Administrative Order 19-057 regarding changes to [Oregon Administrative Rules Chapter 436](#), Division 050, Employer/Insurer Coverage Responsibility that became effective January 1, 2020. These rules address how the workers' compensation law is carried out related to employers' and insurers' responsibilities to cover workers for compensable injuries and illnesses.

Following are several key changes:

- Clarifies that these rules apply to employers, self-insured employers and insurers
- Clarifies the terms "private employment contract" and "home health worker" for the purpose of determining non-subject workers
- Implements House Bill 3003, which was enacted in 2019 and describes the process for release of security after cancellation or revocation of self-insurance

## Texas

### Rules adopted to implement Senate Bill 2551

Effective January 12, 2020

The Texas Division of Workers' Compensation (DWC) [announced](#) the adoption of amendments to Chapters 124 and 180 of the Texas Administrative Code to which implement Senate Bill 2551. These amendments became effective January 12, 2020 and involve process changes for **claims by first responders who may qualify for a presumption**.

Among the changes adopted are:

- Adds a new subsection that describes the three alternative actions that an insurer must take no later than the 15<sup>th</sup> day from the notice of injury:
  - Pay the claim
  - Deny the claim
  - Issue a Notice of Continuing Investigation, PLN-14
- Makes an insurer's failure to provide that Notice of Continuing Investigation an administrative violation
- Adds a subsection that lists requirements for a notice of denial for a disease or illness covered by an applicable statutory presumption
- Provides that a claimant is not required to expressly claim a presumption, although an insurer is required to investigate each element of the statutory presumption
- Outlines the criteria the DWC must use for imposing, recommending and determining sanctions

View the [adopted rules](#) published in the January 10, 2020 issue of the Texas Register.

## Legislation to Watch

### Alaska, Senate Bill 76

**Senate Bill 76** would eliminate the Alaska Workers' Compensation Appeals Commission as of December 31, 2020. It would also repeal or amend the statute and Alaska Rules of Appellate Procedures to transfer the authority to decide appeals of decisions by the Alaska Workers' Compensation Board from the commission to the Alaska Superior Court.

This bill would create a transition period between June 1 and December 1, 2020 when new cases would be filed with the superior court, but the appeals commission would continue to handle the cases that were already pending. On December 2, 2020, all pending cases would be transferred to the superior court, and the appeals commission would be fully repealed on December 31, 2020.

The appeals commission was created in 2005 and handles an average of 32 appeals per year, according to a Legislative Research Services Report. According to fiscal impact reports, elimination of the commission is anticipated to result in cost savings because new cases would be spread across jurisdictions and could be handled by the state's superior court judges without additional resources.

The Alaska legislature is scheduled to adjourn April 20, 2020.

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.

