

**Department of Labor & Workforce Development
Workers' Compensation Division
220 French Landing Drive
Nashville, Tennessee 37243-1002
(615) 532-4812
Toll Free 1-800-332-2667
TDD 1-800-848-0299
Electronic Mail: WC.Info@tn.gov**

2009 WORKERS' COMPENSATION LEGISLATIVE CHANGES

This is a general overview of workers' compensation legislation passed by the 106th General Assembly. For a complete, detailed review of this information and all workers' compensation bills introduced in this legislative session, please go to www.legislature.state.tn.us.

MAXIMUM & MINIMUM BENEFIT CHANGES

Temporary Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2009 through June 30, 2010 is \$837.00 or 110% of the state's average weekly wage.

Permanent Benefits – The maximum weekly benefit rate for injuries occurring July 1, 2009 through June 30, 2010 is \$761.00 or 100% of the state's average weekly wage.

Minimum Weekly Benefit – The minimum weekly benefit rate for injuries occurring July 1, 2009 through June 30, 2010 for both temporary and permanent benefits is \$114.15.

CONFIDENTIALITY OF MEDICAL RECORDS

SB1574/HB1472 provides specific procedures for obtaining medical information from authorized treating medical providers. The bill clarifies that there is no covenant of confidentiality or prohibition against communications with authorized treating medical providers if guidelines/procedures are followed. This applies to communications with authorized treating medical providers concerning medical records and information made on or after July 1, 2009. A detailed summary may be found on the Department's website at www.tn.gov/labor-wfd/wcomp.html.

**RECONSIDERATION OF A PRIOR PERMANENT PARTIAL DISABILITY
AWARD/SETTLEMENT**

Public Chapter 364 (SB1567/HB1471) prohibits reconsideration of a prior permanent partial disability award/settlement pursuant to T.C.A. §50-6-241 in those instances where the ownership of the employer/business changes but the employee continues to be employed by the successor business with the same or higher rate of pay or the employee declines an offer of employment with the same or higher rate of pay. This applies to injuries occurring on or after July 1, 2009.

MAXIMUM TOTAL BENEFIT

SB2000/HB1777 states that for injuries occurring on or after July 1, 2009, the definition of “maximum total benefit” is equal to 400 times 100% of the state’s average weekly wage as set annually by the Division. Temporary total disability benefits are not included in the calculation of “maximum total benefits”.

MENTAL INJURY CLAIMS

SB2000/HB1777 caps the maximum length of time an injured employee can receive temporary disability benefits for a mental injury occurring on or after July 1, 2009.

RECREATIONAL ACTIVITIES CLARIFICATION

Public Chapter 407 (SB1909/HB1500) excludes from workers' compensation injuries those that occur during recreational activities that are not required by the employer, and do not directly benefit the employer. Workers' compensation injuries that are covered under workers' compensation include those that occur where participation:

- 1) was expressly or impliedly required by the employer; or
- 2) produced a direct benefit to the employer beyond improvement in employee health and morale; or
- 3) was during work hours and was part of the employee's work duties; or
- 4) occurred due to unsafe conditions the employer had knowledge of and failed to curtail or cure the unsafe condition.

This Act became effective June 11, 2009.

PERMANENT PARTIAL DISABILITY

SB2162/HB1963 places a one and one-half times cap on permanent partial disability settlements to body as a whole injuries and schedule member injuries worth 200 weeks or more if the employee is not eligible or authorized to work in the United States. This bill is effective for injuries sustained on or after July 1, 2009.

WORKERS' COMPENSATION ADVISORY COUNCIL

SB0607/HB0461 provides that the Workers' Compensation Advisory Council composition will increase from seven to ten nonvoting members. New members will be health care provider representatives who are licensed in Tennessee. The members will consist of a chiropractor, a physical therapist and an occupational therapist. These members will not receive reimbursement for travel expenses. This bill becomes effective upon the Governor's signature.

REMINDER OF REQUIREMENT FOR CONSTRUCTION INDUSTRY TO CARRY WORKERS' COMPENSATION INSURANCE

T.C.A. 50-6-113 (Chapter 1041 of the Public Acts of 2008) clarifies that unless you are a sole proprietor or partner (with no employees) getting paid directly by the property owner, an employer in the contracting group designated by the National Council of Compensation Insurance (NCCI) must have workers' compensation insurance on all of their workers and themselves. This Act becomes effective December 31, 2009.