

Alabama

○ ALABAMA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ala. Code 1975 §§ 25-5-1 – 25-5-340

GENERAL SUMMARY: In the case of an employer who regularly employs 5 or more employees in any one business, Chapter 5 of the state labor laws provides that when personal injury or death is sustained by an employee through an on-the-job accident caused by a covered employer's negligence, the employee or the employee's survivors are entitled to compensation in civil court. In any such lawsuit, the employer generally may not use as a defense that the employee was negligent, that the injury was caused by the negligence of a fellow employee, or that the employee had assumed certain risks in connection with the employment.

As an alternative to court action and the likelihood of a judgment against the employer, the law prescribes the use of workers' compensation insurance, which assures payment of required money benefits to persons injured (or to survivors of persons killed) on the job, without regard to any question of negligence, and protects the employer from any other liability for damages. The law establishes the conditions under which workers' compensation is payable, as well as the type of and limits on such benefits, which include periodic cash payments, payment of burial expenses, and payment of medical and hospital costs.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where the employer elects to become subject to coverage voluntarily, the provisions entitling workers to compensation for employment-related injury or death **do not apply** to farm laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Division, Alabama Department of Labor, Montgomery, Alabama 36130.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Alaska

● ALASKA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Alaska Stat. §§ 23.30.001 – 23.30.400

GENERAL SUMMARY: The Alaska Workers' Compensation Act authorizes the payment of compensation to a covered employee or the employee's survivors in the event of the employee's work-related disability or death. In general, all employers subject to this law are liable for payment of (among other costs) physicians' and nurses' fees, hospital services and supplies, medicines, burial expenses, and weekly cash payments or death benefits on behalf of workers injured, disabled or killed on the job. Compensation is payable without respect to fault as a cause for the injury or accident.

The Act provides for the issuance of workers' compensation insurance policies, the purchase of which fully satisfies the employer's liability for injury to an employee. If, however, an employer fails to obtain workers' compensation insurance coverage or otherwise provide the compensation required under this law, the injured employee (or the employee's survivors) may sue for compensation in state court, and the employer may not use as a defense in such an action that the injury was caused by the employee's negligence or the negligence of a fellow worker, or that the employee had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: The Alaska Workers' Compensation Act generally applies to agricultural employment but **does not cover** harvest labor and similar part-time or transient workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, Department of Labor and Workforce Development, Juneau, Alaska 99811 (907-465-2790).* This agency is responsible for receiving workers' compensation claims filed by employees or their representatives, investigating such claims, and acting to award or deny benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Arizona

● ARIZONA WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ariz. Rev. Stat. §§ 23-901 – 23-1104

GENERAL SUMMARY: The Arizona workers' compensation statute declares the right of covered employees or their survivors to receive compensation for work-related injuries, illness or death, and defines the type and amount of benefits payable. The law places responsibility for payment of compensation on the employer but authorizes the commercial marketing of prescribed workers' compensation insurance policies which will satisfy the employer's liability. An employer subject to the Act who fails to secure workers' compensation insurance coverage and is sued for compensation by an injured employee loses most legal defenses otherwise available under common law. Proof of the employee's injury constitutes prima facie evidence of negligence on the employer's part.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as most other employers, the workers' compensation law applies to farm operators and other agricultural establishments who hire one or more workers. Such employers must either cover their employees with a workers' compensation insurance policy, the cost of which may not be deducted from the employees' pay, or furnish proof to the state administering agency that they have the financial ability to pay compensation directly to injured employees in the event of an accident. In either case, agricultural workers who are injured in an accident or disabled by illness arising out of and in the course of their employment (or the dependents of agricultural workers whose death results from such an accident or illness) are generally entitled to receive periodic cash payments or death benefits, medical and hospital services, medicines, and funeral expenses in accordance with detailed specifications and limitations spelled out in the statute.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — When a farm operator or other agricultural establishment procures work to be done by a contractor over whose work the farm operator retains supervision and control, the contractor and the workers in the contractor's crew are regarded under the workers' compensation law as employees of the farm operator, who is therefore the party liable for coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Claims Division, Industrial Commission of Arizona, Phoenix, Arizona 85007 (602-542-4661).* The state industrial commission is responsible for monitoring, regulating and adjudicating claims for compensation for work-related injuries, illnesses and death, and for processing and paying claims against uninsured employers. This agency is also authorized to assure compliance by employers subject to the financial liability this law imposes.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Arkansas

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ark. Code §§ 11-9-101 – 11-9-1001

GENERAL SUMMARY: The Workers' Compensation Law requires most Arkansas employers with 3 or more regular employees to pay compensation for disability or death arising out of and in the course of employment, generally without regard to fault as a cause of the injury. Failure by an employer to provide required compensation to an injured employee, through a workers' compensation insurance policy or as a self-insurer, exposes the employer to unlimited liability in any suit filed by the employee, since the law strips the employer of most legal defenses otherwise available.

Benefits to which the worker or the worker's dependents may be entitled under the law include, among others, weekly cash payments to compensate for loss of wages, rehabilitation expenses, medical and hospital services, related supplies, and medicines.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law **does not apply** to agricultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Arkansas Workers' Compensation Commission, Little Rock, Arkansas 72201.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

California

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: Cal. Lab. Code §§ 3200–6208

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state liable for payment of compensation to their employees who are injured on the job, without regard to the question of negligence. Compensation to an injured worker (or to the dependents of a worker who dies from work-related injuries) includes medical and hospital treatment, weekly disability payments in lieu of lost wages, and death benefits.

In general, employers must meet their liability for compensation either by obtaining workers' compensation insurance which meets minimum prescribed coverage criteria, or by securing a certificate from the state consenting to self-insurance. If an employer fails to secure payment of compensation through one of these two options, an injured employee or the employee's dependents may bring suit against the employer for damages. In any such action, it is presumed that the injury was due to the negligence of the employer, and the burden of proof is on the employer to rebut this presumption. Moreover, the Act expressly bars the employer from claiming as a defense to the suit that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers are subject to the Workers' Compensation Act, and farmworkers are entitled to its protection, to the same extent as their counterparts in most non-agricultural industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, California Department of Industrial Relations, Oakland, California 94612 (510-286-7100).* This agency is responsible for receiving and processing workers' compensation claims, adjudicating workers' compensation appeals, and overseeing the payment of workers' compensation benefits.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Colorado

● WORKERS' COMPENSATION ACT OF COLORADO

STATUTORY CITATION: Colo. Rev. Stat. §§ 8-40-101 – 8-47-209

GENERAL SUMMARY: The Workers' Compensation Act provides workers who are injured on the job with a pronounced advantage over the employer in a lawsuit to recover damages, by precluding as a defense any claim by the employer that the worker had assumed the risk of the hazard that led to the injury, that the injury was caused by the negligence of a co-worker, or that the injury was caused by the worker's own negligence.

As an alternative to virtually unlimited liability on the employer's part, and lengthy and expensive legal action by the worker, the Act requires covered employers either (1) to secure and maintain in effect a policy of workers' compensation insurance that will cover medical, hospital and rehabilitation expenses, provide periodic payments in lieu of lost wages, and meet other costs due to work-related injury or death, or (2) to obtain a self-insurance permit from the state evidencing the employer's financial ability to provide the same benefits prescribed in a workers' compensation insurance policy.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural employers who have one or more employees are required to protect their workforce with workers' compensation coverage to the same extent as covered non-agricultural establishments.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, Colorado Department of Labor and Employment, Denver, Colorado 80202 (888-390-7936).* This agency is charged with processing workers' compensation claims by injured employees or their dependents, and for assuring the payment of compensation benefits to eligible claimants.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Connecticut

● CONNECTICUT WORKERS' COMPENSATION ACT

STATUTORY CITATION: Conn. Gen. Stat. §§ 31-275 – 31-355b

GENERAL SUMMARY: Under the Workers' Compensation Act, virtually all employers in Connecticut are obligated to pay certain medical costs of employees injured on the job or disabled by an occupational illness, and to compensate such workers or their dependents for the loss of earning capacity caused by the injury or illness, without regard to questions of negligence.

Employers may satisfy this obligation either by securing workers' compensation insurance which meets state-prescribed coverage and benefit standards, or by filing evidence with the state of financial ability to pay compensation directly. In exchange for compulsory protection of their workers against economic loss due to job-related personal injury or death, employers are not liable to any legal action for damages on account of such injury or death. Employers who fail, however, to comply through purchase of workers' compensation insurance or filing proof of self-insurance are subject to a fine, loss of the privilege of doing business in the state, or both such penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers, including farm operators and farm labor contractors, who employ one or more workers are subject to the workers' compensation obligation to the same extent as their non-agricultural counterparts.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Connecticut Workers' Compensation Commission, Hartford, Connecticut 06106 (860-493-1500). The chairman of the Commission exercises supervision over the entire workers' compensation system. Each of the district commissioners has jurisdiction over all workers' compensation claims and questions which arise in his or her respective workers' compensation district, and each has authority to summon and examine witnesses, subpoena records, and apply to the appropriate state court for enforcement of the law. The commissioners-at-large have equivalent power in districts where they are assigned.

A worker who is injured on the job should notify the employer, who must report the facts of the injury to the Chairman's office within one week. A written notice of a claim for compensation must be filed by the injured worker within one year from the date of the accident which caused the personal injury, or within 3 years from the onset of symptoms of the occupational disease. If death has resulted within 2 years from the date of an accident or onset of symptoms of occupational disease, the dependents or legal representative of the deceased employee may make a claim either within the 2-year period or within one year from the date of death, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Delaware

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Del. Code Title 19, §§ 2301–2397

GENERAL SUMMARY: With few exceptions, the Workers' Compensation Law requires all employers in the state who employ one or more workers to assure the payment of compensation (including cash payments in lieu of wages, medical expenses and related benefits) to their employees who are injured in the course of their employment. Employers may satisfy their liability for compensation by purchasing a prescribed policy of workers' compensation insurance, or by providing the state with proof of their financial ability to pay compensation directly. The state workers' compensation statute limits the liability of subject employers for damages resulting from job-related injury or illness of their employees, while protecting workers against loss of income and other costs of injury or illness incurred on the job, regardless of the question of negligence and without the need to resort to court action.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer voluntarily elects coverage, the Workers' Compensation Law **does not apply** to farm laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Workers' Compensation, Division of Industrial Affairs, Delaware Department of Labor, Wilmington, Delaware 19802.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Florida

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Fla. Stat. §§ 440.01–440.60

GENERAL SUMMARY: Under the Workers' Compensation Law, most private employers in the state who have 4 or more employees are liable for the payment of medical services and supplies, cash disability benefits in lieu of wages, and death benefits to surviving dependents, in the case of any employee who is injured or killed in the course of employment, without regard to the question of negligence. An employer covered by this law may satisfy the obligation to pay compensation by securing a prescribed policy of workers' compensation insurance or through self-insurance. While workers' compensation insurance is not compulsory, a subject employer who fails to pay the required compensation subsequent to a worker's job-related injury, illness or death may not, in a suit brought by the worker or the worker's survivors to recover damages, defend the suit on the grounds that the injury was caused by the negligence of a co-worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: In contrast to the coverage test for most non-agricultural industries, the Workers' Compensation Law applies only to those farm operators or other agricultural establishments that (1) employ 6 or more regular farm employees, (2) employ 12 or more seasonal farmworkers at any one time, (3) employ any group of seasonal farmworkers for a job lasting at least 30 days, or (4) employ seasonal farmworkers for a cumulative period of more than 45 days in a calendar year. All such agricultural employers are liable for the payment of compensation to injured workers and are subject to all other provisions of the law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, Department of Financial Services, Tallahassee, Florida 32399 (850-413-1609)*. This agency is responsible for receiving job injury reports from employers, processing claims for workers' compensation benefits, and assuring the payment of benefits to eligible injured workers or their dependents.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Georgia

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ga. Code §§ 34-9-1 – 34-9-421

GENERAL SUMMARY: Georgia's workers' compensation law requires employers with 3 or more employees to provide workers' compensation benefits to employees who sustain work-related injuries, or to surviving dependents of employees whose death is caused by an employment-related accident. Workers' compensation benefits may include payment of medical bills, replacement of a portion of lost wages, vocational services and other benefits. An employer's obligation to compensate employees who are injured on the job may be satisfied by purchasing workers' compensation insurance from a state authorized workers' compensation insurer, or by providing the state administering agency with satisfactory proof of the employer's financial ability to pay compensation directly.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who voluntarily elect to provide coverage, the state workers' compensation law **does not apply** to farm employers or their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *State Board of Workers' Compensation, Atlanta, Georgia 30303.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Hawaii

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Haw. Rev. Stat. §§ 386-1 – 386-214

GENERAL SUMMARY: The state workers' compensation law provides for the payment of medical care and rehabilitation costs, as well as income benefits for disability or death, whenever an employee suffers personal injury either by accident in the course of employment or by disease caused by or resulting from the nature of the employment. Legal liability for payment of such compensation rests exclusively with the employer, who may meet this obligation by (1) securing and maintaining in effect a prescribed workers' compensation insurance policy, (2) depositing with the state satisfactory security guaranteeing payment of compensation in case of injury to employees, (3) furnishing proof, satisfactory to the state administering agency, of the employer's financial ability to pay the required compensation, or (4) providing proof of membership in a workers' compensation self-insurance group. Employers who secure compensation are protected against all other liability stemming from an employee's injury. On the other hand, an employer who fails to comply with one of the four workers' compensation coverage options is subject to administrative penalties.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law generally applies to all agricultural employers and protects all agricultural workers, to the same degree as employers and workers in non-agricultural sectors.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for any employer to suspend or discharge any employee solely because the employee suffers a work injury compensable under this law, unless the employer presents convincing proof that the employee will no longer be able to perform the duties of the job as a result of the injury and that the employer has no other available work which the employee is capable of performing. Any worker who is suspended or discharged because of such a work injury must be given first preference for re-employment by the employer in any position the worker is capable of performing and which becomes available at any time before the worker secures new employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Disability Compensation Division, Department of Labor and Industrial Relations, Honolulu, Hawaii 96813 (808-586-9200).* The Department has authority to investigate an employer's liability for workers' compensation coverage and to compel the employer to secure compensation where compliance cannot be documented. In general, the agency may accept a claim for compensation benefits from any worker, or the worker's surviving dependents, within 2 years after the date when the effects of the injury involved become evident, and within 5 years after the date of the accident or occurrence which caused the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Insurance Division, Department of Commerce and Consumer Affairs, Honolulu, Hawaii 96811 (808-586-2790).* The state Insurance Commissioner is responsible for issuing certificates of approval to entities that meet the qualifications for self-insurance groups as prescribed in the workers' compensation law. The Commissioner has authority to order any person or business found in violation of the law to cease the unlawful practice involved, and in such cases may also impose monetary penalties and revoke the person or firm's certificate of approval or insurance license.

Idaho

● WORKER'S COMPENSATION LAW

STATUTORY CITATION: Idaho Code §§ 72-101 – 72-806

GENERAL SUMMARY: The Worker's Compensation Law assures the payment of medical expenses and income benefits for most workers in Idaho who are injured on the job or in the course of employment, by imposing on most employers in the state the obligation to cover their employees with a prescribed workers' compensation insurance policy or to maintain adequate security to cover compensation claims directly. In general, employers who comply by purchasing workers' compensation insurance or depositing security as self-insurers are protected against any further legal liability for job injuries suffered by their employees, while injured workers and their dependents are protected against loss of income and inability to cover medical costs in the event of work-related injury or death.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker's Compensation Law generally applies to agricultural employers and workers to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Idaho Industrial Commission, Boise, Idaho 83720 (208-334-6000). The Industrial Commission is responsible for regulating workers' compensation activities in Idaho, which includes overseeing companies that issue workers' compensation insurance policies, ensuring that employers have workers' comp coverage as required by law, and settling disputes between injured workers, their employers and insurers.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Illinois

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 305/1 – 305/30

GENERAL SUMMARY: The Workers' Compensation Act requires most classes of employers in Illinois to insure the payment of medical expenses and income benefits to their employees who are injured on the job, by (1) filing an application with the state as a self-insurer, (2) furnishing a bond or other security guaranteeing payment by the employer of the required compensation, or (3) purchasing a prescribed policy of workers' compensation insurance.

Employers whose workers are fully insured for compensation benefits through one of these three options are not liable for damages stemming from injury or death to any worker in a job-related accident. At the same time, the Act provides covered workers with a state-supervised claims process which expedites the payment of benefits to a worker or a worker's surviving dependents without the need for court action and without regard to questions of negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Every agricultural employer in Illinois who employed at least 400 worker-days of agricultural labor (other than immediate family members) in all four calendar quarters of the preceding calendar year is subject to the Workers' Compensation Act. Farmworkers employed by such agricultural establishments are generally entitled to workers' compensation benefits in the event of on-the-job injury.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611).* The Commission is charged with administering the Workers' Compensation Act and in that role is responsible for assuring that subject employers comply with the insurance or self-insurance obligation for the protection of their workers. A worker who suffers an accident on the job must notify the employer as soon as practicable, but no later than 45 days after the accident takes place. The employer is responsible for assuring the payment of compensation benefits to eligible claimants and must report to the Commission all occurrences which result in the loss of more than 3 scheduled workdays and indicate what benefits have been provided to each such injured worker.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

● WORKERS' OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: 820 Ill. Comp. Stat. §§ 310/1 – 310/27

GENERAL SUMMARY: The Workers' Occupational Diseases Act protects most workers in Illinois and their families against financial hardship caused by any disease arising out of and in the course of employment, or which has become aggravated and disabling as a result of on-the-job exposure. Employers subject to this law must obtain a prescribed insurance policy or provide other acceptable security separate and distinct from the insurance or security required under the Workers' Compensation Act, guaranteeing the payment of (1) cash income benefits, (2) medical, surgical, hospital and rehabilitation care, (3) burial costs, and (4) other required benefits to employees whose disability, impairment, disfigurement or death is caused by an occupational disease.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for agricultural enterprises which used less than 400 worker-days of agricultural labor in all four calendar quarters of the preceding calendar year, farm operators and other agricultural establishments must obtain occupational disease compensation insurance or post equivalent security with the state on behalf of their workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Illinois Workers' Compensation Commission, Chicago, Illinois 60601 (312-814-6611).* The Commission has authority to inspect employer payroll records and related documents to ascertain employers' liability to provide coverage under the Act and to assure that subject employers have complied with the Act's coverage requirements. Notice of disablement arising from occupational disease must be given to the employer as soon as practicable after onset of the disease or symptoms. The employer is responsible for assuring payment of benefits to eligible claimants and must report to the Commission all occupational disease disabilities and the amount of compensation benefits provided in each such case.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Indiana

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-1-1 – 22-3-6-3

GENERAL SUMMARY: Indiana's workers' compensation law compels most employers in the state to insure the payment of compensation to their employees and employees' dependents in the event of personal injury or death by accident arising out of and in the course of employment. An employer may meet this obligation by purchasing a prescribed policy of workers' compensation insurance or obtaining a certificate from the state authorizing the employer to carry the risk without insurance. Employers who comply by either means are protected against any further liability for on-the-job injury or death of a worker. At the same time, a worker who is injured while working for such an employer is generally eligible for medical payments and income benefits without regard to the question of negligence or the need for litigation and delay.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law **does not apply** to farm or agricultural employers or employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Indiana Worker's Compensation Board, Indianapolis, Indiana 46204.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

○ WORKERS' OCCUPATIONAL DISEASES COMPENSATION LAW

STATUTORY CITATION: Ind. Code §§ 22-3-7-1 – 22-3-7-38

GENERAL SUMMARY: Indiana's workers' occupational diseases compensation law requires most employers in the state to provide, through prescribed workers' occupational disease compensation insurance or a state-issued certificate of self-insurance, for the payment of weekly income benefits, medical expenses, death benefits, and related compensation in the event of a worker's disablement or death by occupational disease arising out of and in the course of employment. Employers who secure the payment of such compensation are not liable to any further extent to any injured worker or the worker's survivors on account of such disablement or death, while covered workers are generally entitled to benefits under the Act without the need for court action.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' occupational diseases compensation law **does not apply** to farm and agricultural employers or their employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Indiana Worker's Compensation Board, Indianapolis, Indiana 46204.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Iowa

WORKERS' COMPENSATION LAW

STATUTORY CITATION: Iowa Code §§ 85.1 – 85.72

GENERAL SUMMARY: The Iowa workers' compensation law requires every employer in the state not specifically exempted to pay weekly cash benefits, medical and rehabilitation expenses, and burial costs for any and all personal injuries sustained by an employee arising out of and in the course of the employment. Employers who secure workers' compensation insurance or equivalent coverage are generally relieved of any liability for damages in the event of an employee's injury or death on the job, and the employee or the employee's beneficiaries are entitled to compensation without regard to the question of negligence and normally without the need for litigation.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that paid at least \$2,500 in cash wages the previous year are liable in the current year for payment of workers' compensation benefits with respect to the injury or death of any of their employees. Correspondingly, an agricultural worker who, at the time of a job-related injury, was employed by an agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year is entitled to workers' compensation benefits; if the injury results in the worker's death, benefits are usually payable to the worker's surviving dependents.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency is responsible for general administration of the workers' compensation law, and for resolving disputes between employees, employers and workers' compensation insurance carriers regarding liability for payment of benefits. Any worker injured on the job, or a dependent or representative of the worker, should notify the employer of any accident within 90 days of the date of occurrence. Failure to give notice within the 90-day period will nullify any claim for compensation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

IOWA OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Iowa Code §§ 85A.1 – 85A.27

GENERAL SUMMARY: The Iowa Occupational Disease Law entitles employees in most industries and occupations in the state to receive cash compensation, surgical and medical care, physical rehabilitation, nursing and hospital care, and related services and supplies in the event of incapacity or death due to injurious exposure to an occupational disease. In general, where such compensation is payable, the employer in whose service the employee was last exposed to the hazards of the occupational disease involved is liable for coverage, to the extent that the employer is subject to the state workers' compensation law.

PROVISIONS APPLICABLE TO AGRICULTURE: Agricultural employers with a cash payroll of at least \$2,500 the previous year are generally liable for payment of compensation to any worker whose incapacity derives from exposure to an occupational disease while in their employ; the employer's liability is normally met by securing a standard policy of occupational disease compensation insurance. Correspondingly, compensation for disablement due to an occupational disease is generally payable to any agricultural worker who, at the time of the last injurious exposure to the disease, was employed by a farm operator or other agricultural employer whose total cash payroll amounted to \$2,500 or more during the preceding calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Iowa Workforce Development, Des Moines, Iowa 50319 (515-725-4120; toll-free 800-645-4583). This agency has statewide jurisdiction over the operation of the occupational disease compensation system, including the resolution of disputes concerning liability, disablement and benefits. A worker who is incapacitated due to an occupational disease must give written notice to the employer within 90 days after the first distinct manifestation of the disease, or risk losing eligibility for benefits. Likewise, in the case of death from an occupational disease, a written claim must be filed with the employer by the worker's survivors within 90 days after the worker's death.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Kansas

○ WORKERS COMPENSATION ACT

STATUTORY CITATION: Kan. Stat. §§ 44-501 – 44-5,127

GENERAL SUMMARY: The Workers Compensation Act provides that in the event of personal injury to an employee through an accident arising out of and in the course of any employment covered by the law, the employer is liable for the payment of compensation to the injured employee or the employee's surviving dependents. Compensation includes weekly cash payments to offset lost wages, payment of medical and rehabilitation expenses, payment of burial costs, and other benefits.

Subject employers must secure compensation coverage by (1) obtaining and keeping in force an approved policy of workers' compensation insurance, (2) furnishing proof to the state administering agency of financial ability to pay compensation as a self-insurer, or (3) maintaining membership in a qualified group-funded workers' compensation pool. Failure to pay compensation when due may result in a civil penalty against the employer or insurance carrier, payable to the claimant in addition to the required compensation.

With some exceptions, the obligation to insure against workplace accidents and injuries applies to all employers who pay more than \$20,000 in gross wages per year.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers Compensation Act **does not apply** to agricultural pursuits and employment incidental to agricultural operations.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

○ OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Kan. Stat. §§ 44-5a01 – 44-5a22

GENERAL SUMMARY: The Occupational Diseases Act declares that the disablement or death of a worker which results from an occupational disease must be treated as an injury by accident, provided the worker and the worker's employer are subject to the Workers Compensation Act. Covered workers disabled by an occupational disease (or the beneficiaries of workers whose death is caused by an occupational disease) are entitled to cash compensation, medical payments and other benefits under the Workers Compensation Act as if the disability or death were due to a compensable occupational injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as coverage extends only to those employees covered by the state workers' compensation law, the Occupational Diseases Act **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers Compensation Division, Kansas Department of Labor, Topeka, Kansas 66603.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Kentucky

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ky. Rev. Stat. §§ 342.0011 – 342.990

GENERAL SUMMARY: Kentucky's workers' compensation law makes most employers in the state liable for payment of compensation in the event of a worker's employment-related injury, occupational disease or death, without regard to fault as a cause. Employers subject to the law must either insure their liability through purchase of an approved workers' compensation insurance policy, or furnish satisfactory proof of their financial ability to pay compensation directly. Compensation payable on a valid claim includes periodic cash income benefits in lieu of lost wages, medical treatment, appropriate rehabilitation expenses, required supplies and appliances, and burial expenses.

If an employer secures payment of compensation as obligated, the employer is not subject to any further liability in connection with an employee's work-related injury or death. Failure, however, to comply with compensation coverage requirements gives an injured worker (or the surviving dependents of such a worker) the right to sue and recover damages in a civil action, and in any such action the employer may not plead as a defense that the worker's injury was caused by the negligence of a co-worker, that the worker had assumed the risks of the job, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: The state workers' compensation law **does not apply** to any person employed in agriculture.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Department of Workers' Claims, Frankfort, Kentucky 40601.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Louisiana

● LOUISIANA WORKERS' COMPENSATION LAW

STATUTORY CITATION: La. Rev. Stat. §§ 23:1020.1 – 23:1379

RELATED REGULATIONS: La. Admin. Code Title 40, Part I

GENERAL SUMMARY: Under the Louisiana Worker' Compensation Law, if a covered employee receives personal injury in an accident arising out of and in the course of employment, or is disabled by an occupational disease, the employer must pay compensation, consisting of (1) weekly cash disability payments to the worker, (2) cash death benefits and burial expenses to the worker's surviving dependents in the event of the worker's occupationally related death, (3) payment of medical, surgical and hospital services, medicines, prosthetic devices and related medical expenses, and (4) other specified costs.

An employer's liability may be met by means of a prescribed policy of workers' compensation insurance, self-insurance, or participation in a group self-insurance fund. Failure by an insurer or self-insuring employer to pay a valid claim within 60 days after receipt of notice of an injury may result in monetary sanctions against the insurer or employer, in addition to the amount of the claim due.

PROVISIONS APPLICABLE TO AGRICULTURE: With one notable exception, the Louisiana Worker's Compensation Law generally applies to agricultural and non-agricultural employers and employees alike.

EXCEPTION — The law **does not apply** to farmworkers who (1) are employed in the cultivation of the soil, or in the raising or harvesting of any agricultural commodity, by a private unincorporated farm with a total net payroll of \$2,500 or less, and (2) receive annual net earnings of \$1,000 or less.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Workers' Compensation Administration, Louisiana Workforce Commission, Baton Rouge, Louisiana 70804 (225-342-7555)*. This agency is responsible for monitoring injury and payment reports submitted by subject employers, and for helping to resolve disagreements between claimants, employers and insurers regarding coverage, eligibility for benefits and benefit payments. Any worker who is injured on the job or suffers disability due to an occupational disease should notify the employer as soon as possible, but in no case later than 30 days after the date of injury or onset of the disability. If at any time after notification of an occupationally related death, or an injury resulting in more than 7 calendar days' lost work time, a dispute arises over payment of compensation, or if the employer or insurer fails to pay compensation, the worker or dependent of the worker may file a Disputed Claim for Compensation (Form LWC-WC 1008) with a Workers' Compensation district office.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Maine

● MAINE WORKERS' COMPENSATION ACT OF 1992

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 101 – 409

GENERAL SUMMARY: The Workers' Compensation Act entitles most employees in the state to be paid compensation and furnished medical and related services by their employer in the event such employees are injured on the job. An employer may satisfy the obligation to pay compensation and furnish medical and related services by (1) securing a prescribed workers' compensation insurance policy, (2) providing the state administering agency with satisfactory proof of the employer's solvency and financial ability to pay compensation and cover medical and related costs as a self-insurer, or (3) applying to the state agency for approval to participate in a group self-insurance plan.

Any employer who has not complied with this requirement is not entitled, in a civil suit filed against the employer for job-related personal injury or death, to claim as a defense that the injury or death resulted from the worker's own negligence, that the injury or death was caused by the negligence of a co-worker, or that the worker had assumed the risk of injury or death. On the other hand, an employer who has secured the payment of required compensation is exempt from civil actions for damages involving personal injury or death on the job, and workers or their survivors in such cases are generally able to receive regular cash benefits and payment of medical expenses without having to resort to litigation.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Agricultural employers who have employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding a job-related injury are subject to the Workers' Compensation Act, and such workers are entitled to workers' compensation benefits in the event of occupational injury.

Employers of 6 or fewer regular agricultural workers — and those with more than 6 who do not meet the 240-hour threshold — must also provide coverage, unless they maintain an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Employers of workers engaged in agriculture as seasonal or casual laborers must secure workers' compensation coverage for each such worker, unless they maintain an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087).* The Board is charged with ensuring that the state workers' compensation system operates efficiently and with maximum benefit to both employers and employees. The Board must monitor individual compensation cases in order that injured employees and their dependents receive the full amount of compensation to which they are entitled under the Act. Any worker injured in a job-related accident should notify the employer as soon after the injury as possible, but in any event no more than 30 days after the date of injury. If the employer fails to provide compensation, or if a dispute should arise over the employer's liability to make or continue making compensation payments, a petition may be filed with the Board. In general, any worker's claim for compensation under the Act will be barred unless a petition is filed within 2 years after the date of injury, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

● OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Me. Rev. Stat. Title 39-A, §§ 601 – 615

GENERAL SUMMARY: The Occupational Disease Law clarifies that a worker's death or incapacity to work which arises out of and in the course of employment and results from an occupational disease must be treated as a personal injury within the meaning of the Workers' Compensation Act, and all provisions of the Workers' Compensation Act apply to such occupational diseases.

PROVISIONS APPLICABLE TO AGRICULTURE

AGRICULTURAL EMPLOYMENT IN GENERAL — Full-time or regular farmworkers in Maine must be protected by workers' compensation insurance or equivalent compensation coverage in the event of disablement due to occupational disease if they are employed by an employer who has employed more than 6 agricultural laborers for a combined total of 240 hours or more in any one week during the 52 weeks immediately preceding such disablement. Full-time or regular workers employed by any other agricultural employer must also be covered, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$100,000 multiplied by the number of agricultural laborers employed, and medical payment coverage of not less than \$5,000.

SEASONAL OR CASUAL EMPLOYMENT — Seasonal or casual agricultural workers must be covered by a workers' compensation insurance policy or equivalent compensation coverage which pays benefits for occupational disease disablement, unless the employer maintains an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment

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coverage of not less than \$5,000.

SPECIAL NOTES OR ADVISORIES

EXEMPT-STATUS BURDEN OF PROOF — The burden of proof to establish exempt status as an agricultural employer with liability insurance coverage in lieu of workers' compensation, as described above, is on the employer claiming the exemption. Nevertheless, whenever an agricultural employer files a motion with the Workers' Compensation Board claiming exemption, any worker involved may file a reply within 5 days, together with affidavits, records and other evidence supporting the claim that the employer does not fall within an agricultural exemption. If the Board rules in favor of the employer, the worker may appeal the decision to the Board's appellate division.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Office of Monitoring, Audit and Enforcement, Maine Workers' Compensation Board, Augusta, Maine 04330 (207-287-8496; toll-free 888-801-9087).* A worker who becomes disabled by an occupational disease, or the surviving dependents of a worker whose death is caused by such a disease, should notify the worker's most recent employer as soon after the disablement or death as possible. If the employer fails to provide compensation, or if a dispute over the employer's liability to make or continue making compensation payments should arise, the worker or the worker's dependents may file a petition with the Board. Any such claim may generally be barred unless it is filed within 2 years after onset of the disease, or the date the employer files a required first report of injury, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Maryland

● MARYLAND WORKERS' COMPENSATION ACT

STATUTORY CITATION: Md. Code, Lab. & Empl. §§ 9-101 – 9-1201

GENERAL SUMMARY: The Workers' Compensation Act requires most employers who have one or more employees in Maryland to pay or provide monetary compensation for the job-related disability or death of an employee, without regard to fault. Such compensation encompasses, among related benefits, regular cash payments in lieu of lost wages, payment of medical and medically related expenses, and funeral costs.

An employer subject to the Act must meet this obligation by (1) maintaining insurance with an authorized insurer, (2) furnishing the state with satisfactory proof of the employer's financial ability to pay compensation as a self-insurer, or (3) participating in an approved self-insurance group plan. If an employer fails to exercise one of these three options, an injured employee or a legal representative may elect to claim compensation under the Act anyway, or may file a civil action in the courts for damages on account of such injury. In any such action, the employer may not plead as a defense that the injury was caused by the negligence of a fellow worker, that the worker had assumed the risk of employment, or that the injury was due to the worker's own negligence.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that have 3 or more full-time employees, or have a yearly payroll for full-time employees amounting to at least \$15,000, are subject to the Workers' Compensation Act. In general, a farmworker who receives pay from such a farm employer is entitled to workers' compensation in the event of a job-related accident, or disablement due to an occupational disease, which occurs while the worker is so employed. The Act does not, however, cover farmworkers (other than those operating machinery or equipment) who are employed within 25 miles of their permanent place of residence and for only 13 weeks or less during the year.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge an employee because the employee has filed a workers' compensation claim. Violation of the ban on retaliation may result in criminal prosecution and, upon conviction, a fine, imprisonment, or both.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Insurance, Reporting and Compliance Division, Maryland Workers' Compensation Commission, Baltimore, Maryland 21202 (410-864-5297).* The Commission is responsible for assuring employer compliance with the obligation to secure required compensation. Notice of injury must generally be given to the employer within 10 days after the accident (or within 30 days after a death resulting from such an accident), and failure to do so will usually bar any claim for compensation. A subsequent claim for benefits must generally be filed with the Commission within 60 days after the date of the accidental injury (or, when death results from the injury, within 18 months from the date of death). The Commission must investigate each claim filed, order a hearing upon the request of either the employer or the worker, and grant or deny an award within 30 days after the claim is filed or the hearing is concluded.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Massachusetts

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mass. Gen. Laws Ch. 152, §§ 1 – 86

GENERAL SUMMARY: The Massachusetts workers' compensation law compels most employers in the state to provide compensation to their employees who suffer personal injury in the course of their employment. Compensation includes (1) weekly cash benefits for incapacity, (2) the furnishing of medical and hospital services, required medicines, physicians' services, and payment of related costs, and (3) payment of death benefits and funeral costs.

An employer may meet the obligation to provide compensation by purchasing a standard workers' compensation insurance policy, or by obtaining from the state an annual license as a self-insurer. Self-insurers are required to deposit certain security with the state treasurer or furnish a surety bond, payable to the state. In addition to continued liability to the employee, failure by an employer to provide required compensation to an employee injured in a job-related accident is punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies implicitly to all agricultural employers in Massachusetts, to the same extent as employers in other sectors, and farmworkers are entitled to workers' compensation benefits on the same terms as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Office of Claims Administration, Massachusetts Department of Industrial Accidents, Boston, Massachusetts 02114 (617-727-4900; toll-free 800-323-3249). The Department is responsible for assuring the payment of workers' compensation to employees covered by the law who suffer compensable injury. A worker who is injured on the job should promptly notify the employer, who in turn is required to advise the Department of the injury within 48 hours. Within 14 days of receipt of the worker's notice of injury, the employer or the employer's insurer must either commence payment of weekly benefits or advise the worker and the Department of its intention to contest the claim. In the event of a controversy over eligibility for compensation or the ongoing payment of benefits, the Department is charged with investigating the facts and rendering a final administrative decision, reviewable by the state courts.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Michigan

● WORKER'S DISABILITY COMPENSATION ACT OF 1969

STATUTORY CITATION: Mich. Comp. Laws §§ 418.101 – 418.941

GENERAL SUMMARY: The Worker's Disability Compensation Act provides generally that an employee who receives a personal injury (including a disabling occupational disease) in the course of employment with an employer subject to the Act must be paid compensation. Among the benefits to which covered employees are entitled are (1) weekly wage-loss payments, (2) medical, surgical and hospital services, medicines, and related medical care, (3) vocational rehabilitation services, and (4) death benefits.

With some exceptions, every Michigan employer who regularly employs 3 or more workers at one time is required to secure the payment of compensation by (1) obtaining authorization from the state as a self-insurer or part of a self-insurance group, which may involve the posting of a surety bond or other security, or (2) purchasing a workers' compensation insurance policy from a commercial insurer. An employer who fails to comply with the obligation to secure compensation under one of these two options is subject to a \$1,000 fine, a jail sentence of up to 6 months, or both, each day's failure being a separate offense. Moreover, an injured worker whose employer has not secured workers' compensation coverage is entitled to recover damages from the employer in a civil action, and the employer may not plead as a defense in any such action that the worker's injury was due to the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE

FULL COVERAGE — A farm operator or other agricultural establishment which has 3 or more regular workers who (1) are paid hourly wages or salaries, but not on a piecework basis, and (2) worked for the employer at least 35 hours a week for 13 or more consecutive weeks during the preceding 52 weeks, is subject to all provisions of the Worker's Disability Compensation Act, but coverage applies only to such regularly employed workers.

PARTIAL COVERAGE — All agricultural employers who employ at least one worker for 35 or more hours a week for at least 5 consecutive weeks must provide such workers with medical and hospital coverage (including medical, surgical and hospital services, medicines, and related medical care) for job-connected personal injuries. Such workers are not, however, entitled to weekly wage-loss payments, vocational rehabilitation services, or the other benefits payable to eligible employees fully covered under the Act.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Agency, Michigan Department of Licensing and Regulatory Affairs, Lansing, Michigan 48909 (toll-free 888-396-5041).* This agency is responsible for assuring compliance with the employer's obligation to provide compensation, and for resolving disputes regarding eligibility for and payment of workers' compensation benefits. A worker who is injured on the job, or disabled by an illness that was caused or aggravated by conditions at the workplace, should notify the employer as soon after the accident or onset of disability as possible. In general, compensation is due and payable on the 14th day after the employer receives such notice. Any disagreement over the compensability of an injury or disability, or any dispute concerning the continuation of benefits, should be reported to the agency for investigation and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Minnesota

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Minn. Stat. §§ 176.001 – 176.862

GENERAL SUMMARY: The Minnesota workers' compensation law makes most employers in the state liable for compensation in every case of personal injury or death of an employee arising out of and in the course of employment, without regard to the question of negligence. Depending on the circumstances of each such case, compensation benefits may include, among others, (1) weekly cash payments to the employee in lieu of lost wages, (2) medical, surgical and hospital treatment, medicines, supplies and related items, and (3) death benefits. To meet their liability, subject employers must either purchase workers' compensation insurance coverage through a commercial insurance carrier, or obtain authorization from the state as a self-insurer. An employer who fails to secure the payment of compensation risks substantial monetary penalties.

With some exceptions, the obligation to provide compensation to their injured employees applies to anyone who employs another person to perform a service for hire.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmworkers employed by a farm operator or other agricultural establishment which paid at least \$8,000 in cash wages for farm labor in the preceding calendar year are entitled to workers' compensation in the event of injury, disability or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, Minnesota Department of Labor and Industry, St. Paul, Minnesota 55155 (651-284-5005; toll-free 800-342-5354). The Division is responsible for monitoring compliance with the workers' compensation law and for resolving disputes between workers, employers and insurance carriers regarding claims and benefits. In general, compensation must commence within 14 days of notice to the employer of a compensable injury. No benefits are due until the employer has actual knowledge of the occurrence of the injury or receives written notice of the incident from the worker or a dependent of the worker. Moreover, as a rule, an action or proceeding to determine or recover compensation must be initiated within 6 years of the date of the accident on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Mississippi

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Miss. Code §§ 71-3-1 – 71-3-225

GENERAL SUMMARY: The Workers' Compensation Law makes most Mississippi employers liable for certain specified benefits, including payment of medical costs and cash compensation, for the disability or death of an employee from injury or occupational disease arising out of and in the course of employment, without regard to fault. An employer subject to the law must insure payment of such compensation by purchasing a prescribed workers' compensation insurance policy, or furnish the state with proof of financial ability to pay compensation directly. Failure to secure payment of compensation as required is a misdemeanor, punishable by fine, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: While the Workers' Compensation Law applies to the commercial processing of agricultural products, it **does not apply** to farmers or farm labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Mississippi Workers' Compensation Commission, Jackson, Mississippi 39216.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Missouri

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Mo. Rev. Stat. §§ 287.010 – 287.975

GENERAL SUMMARY: The Workers' Compensation Law requires most Missouri employers who have 5 or more employees to furnish compensation for personal injury or death of an employee resulting from an on-the-job accident or occupational disease, irrespective of negligence. Depending on the circumstances of the case, workers' compensation benefits may include, among others, (1) regular cash payments to the employee or the employee's dependents, to compensate for lost wages, (2) payment of medical costs associated with treatment, recovery and rehabilitation, (3) benefits for permanent partial disability, (4) benefits for permanent total disability, and (5) death benefits.

Every employer subject to the Workers' Compensation Law must meet the obligation to provide compensation by obtaining either a workers' compensation insurance policy through a commercial insurance carrier, or authorization from the state to cover the liability as a self-insurer. If an employer fails to comply with one of these two options, an injured employee or the employee's dependents may elect to bring suit against the employer to recover damages for personal injury or death, and the employer is barred from using as a defense in any such action that the employee had assumed the risk of the injury, or that the injury was caused by the worker's own negligence or the negligence of a co-worker.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law **does not apply** to employment of labor in the operation of a farm or the production of agricultural crops.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, Missouri Department of Labor and Industrial Relations, Jefferson City, Missouri 65102.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Montana

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: Mont. Code §§ 39-71-101 – 39-71-4004

GENERAL SUMMARY: The Workers' Compensation Act requires most employers in Montana to enroll in one of three compensation plans, all of which guarantee the payment of medical costs and wage compensation benefits in the event of a worker's accidental job-related injury or death. Plan 1 provides for payment of compensation directly by the employer, who must furnish the state administering agency with proof of solvency and financial ability to pay claims as a self-insurer. Under Plan 2, the employer insures the liability to pay benefits by purchasing a standard workers' compensation insurance policy from a commercial insurance carrier. Plan 3 requires the employer to pay premiums into a state compensation insurance fund, which in turn pays benefits to the employees of participating employers for compensable personal injury or death.

Any employer subject to the Act who has not properly complied with the requirement to enroll in a workers' compensation plan will be ordered to cease operations until coverage is secured. An injured worker who is employed by an uninsured employer, and who is otherwise eligible for compensation, is entitled to benefits through the state uninsured employer's fund, but if the worker or the worker's beneficiaries elect to take civil action to recover damages for the injury, the uninsured employer may generally not plead as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the employment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Act applies to agricultural employers and protects agricultural workers in Montana to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Regulation Bureau, Employer Relations Division, Montana Department of Labor and Industry, Helena, Montana 59604 (406-444-1555). The Department is responsible for enforcement of the employer's obligation to enroll in a workers' compensation plan, and for assuring the timely processing of claims and payment of benefits. A worker who is injured on the job generally must file a report of the accident with the employer within 30 days thereafter in order to realize benefits. A claim for compensation based on such an injury must be filed with the Department, the employer, or the employer's insurer, depending on the compensation plan involved, but as a rule, a decision on the claim must be made within 30 days of receipt. A claimant who has a dispute concerning benefits may petition a workers' compensation judge for a determination.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Nebraska

● NEBRASKA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Neb. Rev. Stat. §§ 48-101 – 48-1,118

GENERAL SUMMARY: Under the Nebraska Workers' Compensation Act, when personal injury is caused to an employee by accident or occupational disease arising out of and in the course of employment, the employee is generally entitled to compensation from the employer as long as the employee was not willfully negligent at the time the injury was received. Workers' compensation includes, among other potential benefits, (1) medical, surgical and hospital services, and (2) cash payments to the employee in lieu of lost wages due to disability. If an employer does not carry a policy of workers' compensation insurance or qualify as a self-insurer, in any lawsuit by a worker or a worker's surviving dependents to recover damages for personal injury or death, the employer loses the right to claim as a defense that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risks inherent in the job.

With some exceptions, the Act applies to every employer in Nebraska who has one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: An agricultural establishment is required to carry workers' compensation insurance covering its employees, or qualify as a self-insurer, if it employs 10 or more unrelated full-time workers on each working day for 13 calendar weeks in any calendar year. The employer's obligation to comply begins 30 days after the 13th such week.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Nebraska Workers' Compensation Court, Lincoln, Nebraska 68509 (402-471-6468; toll-free 800-599-5155).* The Workers' Compensation Court administers and enforces most aspects of the workers' compensation system, including the resolution of disputed claims.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Office of the Attorney General, Lincoln, Nebraska 68509 (402-471-2683).* The Attorney General represents the state when lawsuits arise in connection with liability for payment of benefits. The Attorney General has authority to settle such suits, with approval of the Workers' Compensation Court.

Nevada

○ NEVADA INDUSTRIAL INSURANCE ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 616A.005 – 616D.620

GENERAL SUMMARY: Under the Nevada Industrial Insurance Act, every subject employer must provide compensation for all accidental personal injuries sustained by an employee which arise out of and in the course of employment. Compensation may include the payment of medical costs associated with the injury, and cash benefits to the worker or the worker's dependents for disability or death.

To meet the liability for compensation, an employer may either secure coverage through private insurance companies, join an association of self-insured employers, or qualify as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation and depositing with the commissioner a bond or other security of at least \$100,000. An employer's failure to obtain insurance may result in an order for immediate cessation of the employer's business operations, as well as criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: The Nevada Industrial Insurance Act **does not apply** to anyone engaged in farm, dairy, agricultural or horticultural labor, unless the employer voluntarily agrees to furnish coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

○ NEVADA OCCUPATIONAL DISEASES ACT

STATUTORY CITATION: Nev. Rev. Stat. §§ 617.010 – 617.510

GENERAL SUMMARY: The Nevada Occupational Diseases Act makes most employers in the state liable for the payment of compensation for occupational diseases sustained by their employees which arise out of and in the course of their employment. Every covered worker who is disabled because of an occupational disease, or the dependents of a worker whose death is caused by such a disease, are entitled to payment of the associated medical expenses, cash disability benefits, and death benefits, as the facts may warrant.

Employers may meet their liability for occupational disease compensation by securing coverage through private insurance companies, joining an association of self-insured employers, or qualifying as a self-insured employer by establishing to the satisfaction of the state insurance commissioner that the employer has sufficient resources to make prompt payment of compensation. The Act prescribes both civil and criminal penalties for failure by an employer to secure and provide occupational disease compensation as required.

PROVISIONS APPLICABLE TO AGRICULTURE: Except where coverage is provided by the employer voluntarily, the Nevada Occupational Diseases Act **does not apply** to anyone engaged in farm, dairy, agricultural or horticultural labor.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Section, Division of Industrial Relations, Nevada Department of Business and Industry, Carson City, Nevada 89703.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New Hampshire

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.H. Rev. Stat. §§ 281-A:1 – 281-A:70

GENERAL SUMMARY: The Workers' Compensation Law generally requires employers in New Hampshire who have one or more employees to provide compensation for accidental personal injury, occupational disease or death of any employee which arises out of and in the course of employment. Among the benefits to which covered workers and their dependents are entitled in the event of a compensable injury, illness or death are (1) weekly cash payments in lieu of lost wages, and (2) payment of medical, hospital and remedial care related to the injury.

Subject employers generally must secure compensation by (1) purchasing a prescribed workers' compensation insurance policy from a commercial carrier, or (2) furnishing satisfactory proof to the state administering agency of financial ability to pay the required compensation directly. An employer who fails to comply with the obligation to secure compensation is subject to civil money penalties and suspension of the right to do business in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law applies to agricultural employers with one or more employees, protecting agricultural workers to the same extent as workers in covered non-agricultural sectors.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Workers' Compensation Division, New Hampshire Department of Labor, Concord, New Hampshire 03301 (603-271-3176). The Department is responsible for enforcing compliance with the employer's obligation to secure and pay required compensation for job-connected injuries, and for resolving disputes involving eligibility for and continued payment of workers' compensation benefits. A worker who is injured on the job should report the injury to the employer as soon as possible; under normal circumstances, a claim for compensation is barred unless notice is given within 2 years from the date of injury. In every case of injury or death reported by a worker or by the worker's dependents, the insurance carrier or the employer must either commence timely payment of compensation, or provide the claimant with a written notice showing a valid reason for denial and explaining the claimant's right to petition the Department for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

New Jersey

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.J. Rev. Stat. §§ 34:15-1 – 34:15-128.5

GENERAL SUMMARY: New Jersey's workers' compensation law provides that in all pursuits other than casual labor, an employee who suffers accidental personal injury on the job or is disabled by an occupational disease is entitled to receive compensation for such injury from the employer, provided the employee was not willfully negligent at the time of the injury or disease. Furthermore, the right to compensation cannot be denied on the grounds that the injury was caused by the negligence of a co-worker or that the injured worker had assumed the risks inherent to the job.

To satisfy the liability for compensation, at the same time averting litigation in which these defenses could not be raised, an employer must have workers' compensation coverage, which entails either purchasing a prescribed policy of workers' compensation insurance or applying to the state for exemption as a self-insurer. An employer is presumed to have coverage at the time of hiring, but with or without coverage, the employer remains liable for payment of each injured worker's medical expenses, as well as regular cash disability or death benefits for the worker or the worker's surviving dependents.

PROVISIONS APPLICABLE TO AGRICULTURE: The workers' compensation law applies to all farm operators and other agricultural establishments in New Jersey with one or more employees, to the same extent as employers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

RETALIATION — It is illegal for an employer to discharge or discriminate in any other manner against an employee because the employee has made or attempted to make a claim for workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, New Jersey Department of Labor and Workforce Development, Trenton, New Jersey 08625 (609-292-2515)*. This agency is responsible for assuring compliance with the workers' compensation law by subject employers. In general, a claim for compensation is not payable unless the employer is notified of the injury involved within 14 days of its occurrence. If a disagreement should arise over a claim for benefits, the worker or the worker's dependents must submit the claim to the Division, which is the appropriate forum for adjudicating disputes concerning questions of fact, the nature and effect of the injury, and the amount of compensation payable.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

PRIVATE CIVIL ACTION — Enforcement of a claim against an employer who is subject to the law but does not have workers' compensation coverage requires legal action by the worker in the workers' compensation court, through a private attorney or public legal service provider. A worker in that situation may apply for benefits through the Uninsured Employer's Fund.

New Mexico

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: N.M. Stat. §§ 52-1-1 – 52-1-70

GENERAL SUMMARY: The Workers' Compensation Act requires most New Mexico employers who have 3 or more workers to pay compensation to any such worker who is injured in a job-related accident, or to compensate the dependents of such a worker whose death stems from a job-related accident. Compensation includes the payment of medical costs incurred as a result of the worker's injury or death, and cash disability or death benefits in lieu of lost wages. For permanent partial disability, benefits are paid for a fixed period of time, based on the percentage of disability and the part of the body that is injured.

Every employer subject to the Act must meet the liability for payment of compensation either by filing proof of workers' compensation insurance coverage or comparable security with the state administering agency, or by applying to the state agency for a certificate as a self-insurer. The state agency is authorized to apply to district court to enjoin from further business operations in the state any employer who fails to file the required evidence of compliance.

PROVISIONS APPLICABLE TO AGRICULTURE: As written, the Workers' Compensation Act **does not apply** to farm and ranch laborers, but please see special note below.

SPECIAL NOTES OR ADVISORIES

INVALIDATION OF FARM AND RANCH LABOR EXCLUSION — In an opinion issued on June 30, 2016 (*Rodríguez v. Brand West Dairy, 2016-NMSC-029*), the New Mexico Supreme Court found that the exclusion of farm and ranch workers from coverage of the Workers' Compensation Act violates Article II, Section 18 of the New Mexico Constitution and amounts to arbitrary discrimination. Consequently, workers' compensation claims filed by farm and ranch workers after August 4, 2016, are covered to the same extent as claims by other covered employees.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125 (505-841-6000; toll-free 800-255-7965).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

○ NEW MEXICO OCCUPATIONAL DISEASE DISABLEMENT LAW

STATUTORY CITATION: N.M. Stat. §§ 52-3-1 – 52-3-60

GENERAL SUMMARY: With very few exceptions, the New Mexico Occupational Disease Disablement Law makes every employer in the state liable for the payment of compensation to any employee who suffers total disablement by reason of an occupational disease arising out of the worker's employment, or compensation for the dependents of any such worker whose death results from such an occupational disease. Compensation includes the payment of medical expenses associated with the compensable disease or death, as well as cash benefits to the worker or the worker's dependents to cover loss of wages.

To meet the liability for occupational disease compensation, subject employers are required either to submit proof of occupational disease compensation insurance coverage or comparable security to the state administering agency, or to apply to the state for a certificate of exemption as a self-insurer. Failure by an employer to evidence compliance may result in loss of authority to continue business operations in New Mexico.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employers who elect coverage voluntarily, the New Mexico Occupational Disease Disablement Law **does not apply** to employers of agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *New Mexico Workers' Compensation Administration, Albuquerque, New Mexico 87125.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

New York

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.Y. Workers' Compensation Law §§ 1 – 401

GENERAL SUMMARY: The Workers' Compensation Law requires most New York employers with one or more workers engaged in certain specified hazardous occupations to provide compensation for the disability or death of an employee from an injury or occupational disease connected with the job, generally without regard to fault as a cause. Among the principal benefits for which the employer is responsible in such cases are payment of the cost of the worker's medical treatment and related care, and cash payments to the worker or the worker's surviving dependents to offset the loss of wages.

Employers subject to the law must secure the payment of compensation by either paying premiums to the state insurance fund, purchasing a commercial workers' compensation insurance policy, or furnishing the state with proof of financial ability to pay compensation directly. An employer who fails to obtain coverage under one of these three options is criminally liable.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator who, in the preceding calendar year, paid cash remuneration of \$1,200 or more for farm labor must provide workers' compensation coverage to all farm laborers employed during any part of the 12 consecutive months beginning April 1 of the current calendar year.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *New York State Workers' Compensation Board, Schenectady, New York 12305 (toll-free 866-298-7830).* The Board is solely responsible for administration and enforcement of the workers' compensation program. In general, notice of a worker's injury or death on the job must be given to the employer within 30 days of its occurrence, and the employer is obligated to report an injury within 10 days after an accident. The employer must promptly provide such medical, surgical and related treatment as the injury or recovery process may require, and is liable for those expenses. Under most circumstances, a claim for compensation is not valid unless it is filed within 2 years of the worker's injury or death (or within 2 years of disablement, in the case of an occupational disease). Any dispute between the worker and an insurance carrier or employer regarding a compensation claim, continuation of benefits, or payment of medical costs may be appealed to the Board.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

North Carolina

● NORTH CAROLINA WORKERS' COMPENSATION ACT

STATUTORY CITATION: N.C. Gen. Stat. §§ 97-1 – 97-200

GENERAL SUMMARY: The North Carolina Workers' Compensation Act renders most private employers in the state who have 3 or more regular employees, liable for the payment of compensation for any employee injured in a job-related accident or disabled by an occupational disease. Among other benefits, compensation includes the cost of medical treatment and regular cash payments to the worker or the worker's dependents to offset loss of wages.

Every employer subject to the Act must either (1) secure coverage through a commercial policy of workers' compensation insurance, or (2) obtain a license from the state as evidence of financial ability to pay compensation directly. Failure to evidence compliance under one of these two options may lead to an administrative fine and criminal prosecution.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators who regularly employ 10 or more full-time non-seasonal farm laborers are subject to the Workers' Compensation Act, and farm laborers — even seasonal workers — employed by such an establishment are entitled to workers' compensation benefits for accidental injury, occupational disease or death sustained in the course of their employment.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Compliance Unit, North Carolina Industrial Commission, Raleigh, North Carolina 27699 (919-807-2525; toll-free 800-688-8349). The Commission is established under the Workers' Compensation Act to administer and enforce the state workers' compensation system. An employee or the representative of an employee who is injured or killed in a job-related accident, or disabled as a result of an occupational illness, must promptly notify the employer, normally within 30 days of the injury, death or disablement. An employer subject to the Act is immediately liable for required medical treatment and supplies, and if the worker is disabled by the injury, the employer is generally liable for compensation payments after the first 7 days of disability. The right to compensation, however, is barred unless a claim is filed within 2 years after the accident or onset of the illness involved. Any worker who has a dispute with an employer or insurance carrier regarding eligibility for compensation, or over the amount or duration of benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

North Dakota

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: N.D. Cent. Code §§ 65-01-01 – 65-10-03

GENERAL SUMMARY: Every employer subject to North Dakota's workers' compensation law is required to pay premiums to the Workforce Safety and Insurance Fund, the assets of which are used to pay for medical, surgical and hospital services and supplies required by covered employees who are accidentally injured in the course of employment with a subject employer. If an accident results in death, or a disability of 5 days or more, the Fund will also pay cash benefits to protect the worker's dependents against loss of income.

Provided the employer is duly insured, the payment of compensation by the state for an employee's work-related injury generally relieves the employer of all further liability. On the other hand, an employer who fails to secure workers' compensation coverage is subject to criminal penalties and is liable to each employee for damages suffered by reason of injury sustained in the course of employment. In a damage suit by a worker or a worker's dependents against an uninsured employer, the employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risks involved in the job.

PROVISIONS APPLICABLE TO AGRICULTURE: North Dakota's workers' compensation law applies only to "hazardous employment," the statutory definition of which explicitly excludes agricultural service. Hence, the law **does not apply** to agricultural employers or workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *North Dakota Workforce Safety and Insurance, Bismarck, North Dakota 58503.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Ohio

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Ohio Rev. Code §§ 4123.01 – 4123.932

GENERAL SUMMARY: With very few exceptions, the workers' compensation law guarantees that every employee in Ohio who is injured or who contracts an occupational disease in the course of employment, and the dependents of any employee who dies as a result of a work-related accident or occupational disease, are entitled to cash compensation, medical treatment, medicines, and related benefits. The financial responsibility for providing such benefits is on the employer, who may either pay annual premiums to the state workers' compensation fund, or present evidence of ability to pay required compensation directly. Self-insured employers must obtain a surety bond to cover any default in the payment of required benefits.

An otherwise eligible worker who suffers a compensable injury or contracts an occupational disease while working for an employer who has failed to comply with the obligation to secure compensation may file a claim and receive benefits from the state fund; every such claim becomes a lien against the employer's property, payable to the state. Furthermore, non-complying employers are liable to their employees for damages suffered in a work-connected injury, and to the employees' dependents where death results from the injury; in any suit to recover damages the employer is barred from claiming as a defense that the injury was due to the negligence of the worker or that of a co-worker, or that the worker had assumed the risks inherent to the employment. Failure to comply is also punishable as a criminal offense.

PROVISIONS APPLICABLE TO AGRICULTURE: To the same extent as employers in virtually all other industries, farm operators and other agricultural establishments with one or more workers in their service are required to provide coverage under the workers' compensation law.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Ohio Bureau of Workers' Compensation, Columbus, Ohio 43215 (614-644-6292; toll-free 800-644-6292).* The Bureau is responsible for (1) determining the liability of employers for workers' compensation coverage and enforcing the payment of premiums or equivalent compliance by subject employers, and (2) processing workers' compensation claims filed by workers and surviving dependents and paying benefits for valid claims. A worker who is injured on the job or disabled by an occupational disease, or the dependents of a worker whose death is related to such an injury or disease, may file a claim in person, by phone, or online at <https://www.bwc.ohio.gov/bwcccommon/forms/froi/default.asp>.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Oklahoma

○ ADMINISTRATIVE WORKERS' COMPENSATION ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 1 – 125

GENERAL SUMMARY: The Administrative Workers' Compensation Act requires most Oklahoma employers to provide compensation for the disability or death of their employees which results from an accidental on-the-job personal injury or an occupational disease, generally without regard to fault. Compensation includes, among other potential benefits, (1) medical and surgical treatment, medicines and related services, and (2) cash payments to the worker or the worker's dependents to compensate for lost wages.

To meet the liability for such benefits, every employer subject to the Act generally must either purchase a workers' compensation insurance policy from a commercial carrier, or furnish proof to the state administering agency of financial ability to provide compensation as a self-insurer. Employers who fail to secure compensation are liable for a civil penalty of up to \$10,000. In the event a non-complying employer is sued for damages by a worker or the surviving dependents of a worker injured or killed in the course of employment, the employer loses the right to use as a defense in court that the injury was caused by the negligence of the worker or a co-worker, or that the worker had assumed the risk of employment.

PROVISIONS APPLICABLE TO AGRICULTURE: Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

○ OKLAHOMA EMPLOYEE INJURY BENEFIT ACT

STATUTORY CITATION: Okla. Stat. Title 85A, §§ 200 – 213

GENERAL SUMMARY: Under certain conditions, the Employee Injury Benefit Act allows any employer subject to the Administrative Workers' Compensation Act (see preceding entry) to opt out of it and establish a written benefit plan that provides essentially the same benefits for the work-related injury or death of their employees as required by the Workers' Compensation Act. Employers who opt out in favor of this law must obtain and keep in force a prescribed insurance policy or surety bond evidencing the employer's ability to pay required medical costs, death benefits and loss of wages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Employee Injury Benefit Act applies to employees to the same extent as the term is defined in the Administrative Workers' Compensation Act, described in the previous entry. Other than employees who operate motorized machines for an employer with a gross annual farm payroll of \$100,000 or more, the Administrative Workers' Compensation Act — and thus the Employee Injury Benefit Act — **does not apply** to agricultural workers.

SPECIAL NOTES OR ADVISORIES

CONSTITUTIONALITY — In an opinion issued on September 13, 2016 (*Vásquez v. Dillard's*, 2016 OK 89), the Oklahoma Supreme Court ruled the Oklahoma Employee Injury Benefit Act creates an "impermissible select group of employees seeking compensation for work-related injuries for disparate treatment," and is therefore "an unconstitutional special law."

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Oklahoma Workers' Compensation Commission, Oklahoma City, Oklahoma 73105.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Oregon

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.001 – 656.990

GENERAL SUMMARY: The Workers' Compensation Law obligates most employers in Oregon to maintain assurance with the state administering agency that each of their workers and the workers' beneficiaries will receive compensation in the event of the accidental injury or death of the worker in the course of employment, and that the cost of medical treatment and related services connected with the injury will be borne by the employer, who must either purchase a policy of workers' compensation insurance or qualify as a self-insurer.

Employers who comply with the obligation to secure compensation are generally protected against all other liability stemming from the accidental injury or death of an employee. On the other hand, a damage suit may be brought by an injured worker, or the legal representative of an injured worker, against any employer who has failed to cover its employees or is in default on its premiums, fees or deposits. In any such action, the employer is fully liable as if the Workers' Compensation Law had never been enacted, and the employer loses the right to claim as a defense that the worker's injury was caused by the negligence of a co-worker, that the injured worker's own negligence contributed to the accident, or that the injured worker had knowledge of the danger or assumed the risk that resulted in the injury. Non-compliance also subjects the employer to civil money penalties, a criminal fine, and loss of the right to employ workers in the state.

PROVISIONS APPLICABLE TO AGRICULTURE: Like most other employers in the state, any farm operator and other agricultural establishment in Oregon who employs one or more workers is required to protect them with workers' compensation insurance or qualify as a self-insurer.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288)*. The Division is responsible for enforcing compliance with the employer's obligation to secure workers' compensation coverage, and for assuring the payment of benefits for compensable injuries. As a condition for approval of most claims for compensation, any accident which results in an injury or death must be reported to the employer no later than 90 days after the accident. If the injury is compensable, the insurance carrier or the self-insured employer must provide immediate and continuing medical treatment for conditions resulting from the injury. The first installment of compensation must be paid within 14 days after the employer has knowledge of the claim.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308)*. Any dispute that arises between a worker (or a worker's surviving dependents) and the employer or insurance carrier regarding eligibility for, the amount of, or the duration of benefits may be referred to the Hearings Division.

● OCCUPATIONAL DISEASE LAW

STATUTORY CITATION: Or. Rev. Stat. §§ 656.802 – 656.807

GENERAL SUMMARY: Any disease or infection which arises out of and in the course of a worker's employment, and to which the worker is not ordinarily exposed other than on the job, is considered an injury for purposes of the Workers' Compensation Law and hence may entitle the worker to compensation payments and medical benefits.

PROVISIONS APPLICABLE TO AGRICULTURE: Inasmuch as the Workers' Compensation Law generally applies to all farm employment, the Occupational Disease Law protects farmworkers and their dependents from loss of income due to disablement or death from occupational disease, to the same extent as workers in covered non-agricultural industries.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — If a farm operator contracts with a farm labor contractor for the performance of agricultural services in the normal course of the farmer's business, the farm operator is responsible for providing workers' compensation coverage for the workers performing the services, unless the labor contractor provides such coverage before services under the contract commence.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Division, Oregon Department of Consumer and Business Services, Salem, Oregon 97309 (503-947-7810; toll-free 800-452-0288)*. Claims for occupational disease compensation are processed in the same manner as provided for accidental injuries under the Workers' Compensation Law. As a rule, occupational disease claims are void unless filed with the insurer or self-insured employer within one year after the worker first discovers the disease, or within one year after the date of disablement or the diagnosis of occupational disease, whichever is later.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Hearings Division, Workers' Compensation Board, Salem, Oregon 97302 (503-378-3308)*. Disputes regarding entitlement to compensation or the amount of compensation due may be appealed to the Worker's Compensation Board.

Pennsylvania

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: 77 Pa. Stat. §§ 1 – 2708

GENERAL SUMMARY: The Workers' Compensation Act makes most employers in the state — regardless of payroll volume or number of employees — liable for the payment of compensation in the event an employee is accidentally injured, or dies as a result of an accidental injury, in the course of employment. Workers injured on the job are entitled to reasonable medical and surgical services, medicines and supplies, at the employer's expense, and if injury leads to the disablement or death of the worker, the employer is responsible for payment of cash benefits to the worker or the worker's dependents to compensate for lost wages.

To meet liability under the Act, an employer must purchase workers' compensation insurance, either through the State Workers' Insurance Fund or through a commercial insurance carrier, or, with proof of financial ability to pay compensation directly, may apply to the state for an annual insurance exemption. Employers who insure their liability for compensation generally are protected from further liability for work-related injury to their employees, and the workers are assured prompt medical attention and monetary compensation without need of litigation. On the other hand, an employer who fails to comply may be sued for damages by an injured employee and forfeits the right to claim as a defense that the injury was caused by the negligence of a co-worker or by the worker's own negligence, or that the worker had assumed the risk that led to the injury. Moreover, non-complying employers are subject to criminal fines and imprisonment.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other agricultural establishment which (1) pays wages of \$1,200 or more to any one worker during the calendar year for agricultural labor, or (2) employs any one worker for 30 or more days of farm labor during the year, must provide workers' compensation coverage for all the establishment's employees.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — A farm operator or other agricultural establishment subject to the Workers' Compensation Act that uses the services of workers hired by a farm labor contractor to perform labor on the establishment's premises is liable for compensation if such a worker is injured in the course of the job, unless the contractor is liable for compensation and has already secured coverage.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104 (717-886-9035; toll-free 800-482-2383). It is the Department's duty to enforce employer compliance with the obligation to secure workers' compensation insurance or obtain an exemption permit, and to assure prompt processing of injury cases and payment of compensation by employers and insurers. In general, notice of the occurrence of a worker's injury must be given to the employer within 120 days after the date of injury, or no compensation is allowed. The Department may respond to a petition by an employee or an employee's dependents requesting a hearing and determination in any case in which compensation has been denied or has not been paid in accordance with prescribed time standards.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

○ PENNSYLVANIA OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: 77 Pa. Stat. §§ 1201 – 1209

GENERAL SUMMARY: The Pennsylvania Occupational Disease Act requires most employers in the state to insure their workers against disablement or death caused by occupational disease resulting from employment. Unless exempted by the state administering agency as having sufficient financial ability to cover claims directly, subject employers must purchase occupational disease compensation insurance from the State Workers' Insurance Fund or from a commercial insurance carrier, to meet the cost of medical treatment and regular cash benefits to the worker or the worker's dependents for continuing disability or death. Employers who fail to comply with the obligation to insure are faced with criminal fines, imprisonment, or both.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act **does not apply** to persons performing agricultural services.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Pennsylvania Department of Labor and Industry, Harrisburg, Pennsylvania 17104.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Puerto Rico

● COMPENSATION SYSTEM FOR WORK-RELATED ACCIDENTS ACT

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 1 – 42

GENERAL SUMMARY: Under the Compensation System for Work-Related Accidents Act, every covered worker who suffers an accidental on-the-job injury or contracts an occupational disease is generally entitled to (1) medical treatment, medicines and necessary hospital services, and (2) weekly cash compensation for the duration of any period of temporary disability, or for a specified number of weeks in the event of permanent disability. If death results from such an injury or disease, the Act authorizes the payment of monthly benefits to the worker's surviving dependents for up to 10 years.

Every employer subject to the Act is compelled to pay premiums to the State Insurance Fund to cover the employer's liability for workers' compensation. Not only are there criminal penalties for failure to insure, but an employer who is not insured at the time of a compensable injury may be sued by the injured worker for damages, and the fact that the worker or a co-worker was guilty of negligence, or that the worker had assumed the risk that led to the injury, may not be used by the employer as a defense to the suit.

PROVISIONS APPLICABLE TO AGRICULTURE: The Compensation System for Work-Related Accidents Act applies to agricultural establishments and all other employers in Puerto Rico who employ one or more non-casual workers. Hence, like their counterparts in other industries, farmworkers who suffer injury, are disabled, or lose their lives in an accident caused by and in the course of their employment, or who are disabled or die from an occupational disease, have a right to receive medical care and monetary compensation furnished by their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for enforcing the liability of employers to insure the payment of workers' compensation, and is authorized to suspend the activities of any business found to be operating without required insurance. It is the Corporation's duty, also, to refer injured workers to designated health care providers for examination and treatment, to attend to the physical rehabilitation of such workers, and to assure the payment of workers' compensation benefits to eligible claimants. A worker who is injured in any way in connection with the job should notify the employer immediately, so that the employer may report the accident to the State Insurance Fund in compliance with the statutory 5-day limitation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545). In response to an appeal, the Industrial Commission is authorized to review any decision by the State Insurance Fund Corporation which adversely affects a workers' compensation claimant.

● INJURED MIGRANT WORKERS LAW

STATUTORY CITATION: 11 Laws P.R. Ann. §§ 60 – 65

GENERAL SUMMARY: Chapter 2 of the workers' compensation statutes (1) authorizes the Puerto Rico Industrial Commission to intervene on behalf of workers injured in the United States, and (2) provides for the payment of medical and hospital benefits for certain job-injured migrant workers returning to Puerto Rico from employment abroad. These provisions apply implicitly to agricultural workers, to the same extent as workers in any other industry or occupation.

SPECIFIC TERMS AND CONDITIONS

ASSISTANCE WITH U.S. CLAIMS — When a Puerto Rico migrant worker is injured or killed in an occupational accident in any state or territory of the United States and the worker or the worker's surviving dependents are unable to get back to the location where the accident occurred to process a workers' compensation claim, the Industrial Commission of Puerto Rico is authorized to intervene on the claimant's behalf. Under this authority, the Commission may perform such functions as obtaining additional medical evidence at the request of the workers' compensation administering agency having jurisdiction over the case, or taking steps at the request of the injured worker or the worker's beneficiaries to expedite processing of the claim.

MEDICAL AND HOSPITAL BENEFITS — Migrant workers from Puerto Rico who are injured in a work-related accident or disabled by an occupational disease in the course of employment abroad under a contract of hire approved by Puerto Rico's labor secretary, and who require medical treatment and hospitalization on their return to Puerto Rico, are generally eligible for medical and hospital benefits provided under the Compensation System for Work-Related Accidents Act until their rehabilitation. The cost of services for injured workers returning to Puerto Rico is paid for out of budget appropriations to the Department of Labor and Human Resources, but the labor secretary is obligated to attempt to recover all such costs from the employer's insurer in accordance with mandatory provisions in the approved contract of hire.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Industrial Commission of Puerto Rico, San Juan, Puerto Rico 00936 (787-781-0545). The Industrial Commission has a duty to assist injured workers returning home to Puerto Rico in obtaining workers' compensation benefits to which they may be entitled, as described above. The Commission is also responsible for handling appeals from workers denied services by the State Insurance Fund Corporation.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – Employment Service Division, Bureau of Employment Security, Puerto Rico Department of Labor and Human Resources, Hato Rey, Puerto Rico 00918 (787-756-1180). The Department is authorized to request medical and hospital services through the State Insurance Fund on behalf of any worker who is injured abroad while employed under a Department-approved contract.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY — State Insurance Fund Corporation, San Juan, Puerto Rico 00936 (787-793-5959). The Insurance Fund Corporation is responsible for referring injured workers to designated health care providers for examination and treatment, for attending to the physical rehabilitation of such workers, and for assuring the

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payment of workers' compensation benefits to eligible claimants.

Rhode Island

● WORKERS' COMPENSATION ACT

STATUTORY CITATION: 28 R.I. Gen. Laws §§ 28-29-1 – 28-38-25

GENERAL SUMMARY: Under the Workers' Compensation Act, an employee who receives a personal injury, or suffers disablement from an occupational disease, arising out of and in the course of employment is generally entitled to cash compensation from the employer. Moreover, if the injury or illness should result in death, the worker's surviving dependents are normally eligible for death benefits. The Act requires, also, that subject employers promptly provide for reasonable medical and surgical services, hospital care, medicines, and related benefits necessary to cure, rehabilitate or relieve their employees from the effects of job-related injuries or disease.

To meet their liability, every employer subject to the Act must (1) purchase a policy of workers' compensation insurance from a licensed carrier, (2) enroll in a group self-insurance fund, or (3) furnish the state enforcement agency with proof of financial ability to pay workers' compensation benefits directly. Failure by an employer to secure payment of compensation under one of these options is a criminal offense. Furthermore, a worker injured while in the employ of a non-complying employer may sue the employer for damages, and in any such suit the employer is barred from claiming as a defense that the injury resulted from the negligence of the worker or a co-worker, or that the worker had assumed the risks that led to the injury.

The Workers' Compensation Act generally applies to all individuals, partnerships and corporations with one or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farmers and other agricultural employers who employ 25 or more farmworkers for 13 or more consecutive weeks are generally required to provide workers' compensation coverage to their employees. Employers who meet this workforce threshold, however, have the option of purchasing health and disability insurance covering their farm employees, thereby exempting themselves from the requirements of workers' compensation, provided the health and disability insurance premium exceeds the premium for workers' compensation insurance.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Division of Workers' Compensation, Rhode Island Department of Labor and Training, Cranston, Rhode Island 02920.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

South Carolina

○ SOUTH CAROLINA WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.C. Code §§ 42-1-10 – 42-19-50

GENERAL SUMMARY: The South Carolina Workers' Compensation Law makes most employers in the state who have 4 or more employees liable for the payment of compensation for any employee whose personal injury or death results from a job-related accident or whose disablement is due to an occupational disease. Subject employers are required to insure their liability through a prescribed workers' compensation insurance policy, or by furnishing the state enforcement agency with evidence of their financial ability to pay compensation directly. In addition to cash compensation to the worker or the worker's surviving dependents, the employer is also obligated to cover the cost of medical, surgical and hospital services and related expenses stemming from an employee's job injuries or occupational disease.

In return for accepting workers' compensation coverage and insuring the payment of compensation, the employer is generally relieved of all further liability in connection with injury to his or her employees. On the other hand, an employer who declines coverage may be sued for damages by a worker injured on the job, or by the dependents of such a worker, and in any such action the employer may not claim as a defense in court that the worker was negligent, that the injury was caused by the negligence of a co-worker, or that the worker had assumed the risk of the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Unless the employer elects voluntary coverage, the Workers' Compensation Law **does not apply** to agricultural workers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *South Carolina Workers' Compensation Commission, Columbia, South Carolina 29202.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

South Dakota

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: S.D. Codified Laws §§ 62-1-1 – 62-9-15

GENERAL SUMMARY: Under the South Dakota workers' compensation law, most employers in the state are responsible for (1) providing necessary first-aid, medical, surgical and hospital services, and related care during the disability or treatment of an employee injured on the job or disabled by an occupational disease, and (2) paying cash benefits to any such worker (or to the surviving dependents of such a worker if death results from the injury or disease) to compensate for loss of wages. To meet this liability, subject employers must either purchase workers' compensation insurance, operate a state-approved self-insurance plan, or provide the state administering agency with proof of solvency and financial ability to pay compensation directly.

Employers who comply with the requirement to secure payment of compensation are generally protected against further liability for an employee's personal injury or death arising out of and in the course of employment. In the event, however, that a worker is injured or killed while working for an uninsured or insolvent employer, the worker or the worker's dependents may elect to sue the employer for recovery of damages or to proceed against the employer in circuit court under the workers' compensation law. In the latter case, the claimant is entitled to twice the amount of compensation that would otherwise be payable if the employer were insured.

PROVISIONS APPLICABLE TO AGRICULTURE: Except for employees of businesses which operate threshing machines, grain combines, corn huskers and similar mechanical equipment for hire, South Dakota's workers' compensation law **does not apply** to farm or agricultural laborers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Program, Division of Labor and Management, South Dakota Department of Labor and Regulation, Pierre, South Dakota 57501.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Tennessee

○ WORKERS' COMPENSATION LAW

STATUTORY CITATION: Tenn. Code §§ 50-6-101 – 50-6-921

GENERAL SUMMARY: The Workers' Compensation Law requires every employer subject to its terms to pay compensation for the injury or death of an employee, due to an accident or an occupational disease arising out of and in the course of employment, generally without regard to fault. In addition, subject employers are responsible for furnishing free of charge to the injured or diseased worker such medical and surgical treatment, medicines, supplies and other care as are reasonably necessary for treatment of or recovery from such injury or disease. To meet their obligations under the law, employers must either purchase a workers' compensation insurance policy from a commercial carrier, or provide the state with proof of financial ability to pay claims directly.

Employers who insure their liability for compensation or qualify as self-insurers are generally protected against all further liability for injury or death of a worker on the job, and the worker or the worker's dependents are accorded compensation and medical care without the need for litigation. On the other hand, an employer who fails to secure payment of compensation faces significant fines and other penalties assessed by the enforcement agency.

PROVISIONS APPLICABLE TO AGRICULTURE: The Workers' Compensation Law **does not apply** to agricultural laborers or their employers.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Bureau of Workers' Compensation, Tennessee Department of Labor and Workforce Development, Nashville, Tennessee 37243.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

Texas

● TEXAS WORKERS' COMPENSATION ACT

STATUTORY CITATION: Tex. Labor Code §§ 401.001 – 419.007, §§ 451.001 – 451.003, and §§ 501.001 – 506.002

GENERAL SUMMARY: In most lawsuits involving damages for an employee's accidental injury on the job, the Texas Workers' Compensation Act abolishes the employer's right to claim as a defense that the accident was due to the employee's own negligence or the negligence of a co-worker, or that the employee had assumed the risk of injury inherent in the employment. To effectuate the Act's primary purpose of providing medical care and income support for job-injured employees without regard to fault and without the need for litigation, offsetting at the same time the substantial loss of legal defenses by employers, the Act strips the employee of the right to sue the employer for damages as long as the employer maintains workers' compensation insurance coverage through a state-licensed insurance company or has a valid certificate of authority to self-insure.

Employees covered by workers' compensation insurance at the time of a work-related injury or onset of an occupational disease are generally entitled to (1) all health care reasonably required by the nature of the injury, as and when needed, and (2) income benefits to compensate for lost wages and certain permanent impairment. In the event of death due to a compensable injury or occupational disease, weekly compensation is payable to the employee's surviving beneficiaries.

Unless they formally opt out, most Texas employers who employ one or more workers are subject to the Act, and their employees are covered unless they request exemption.

PROVISIONS APPLICABLE TO AGRICULTURE

MIGRANT WORKERS — The Workers' Compensation Act applies without exception to workers who are employed in seasonal or temporary agricultural labor and who are required to be absent overnight from their permanent place of residence.

SEASONAL WORKERS — Employees performing farm or ranch work which does not require overnight absence from their permanent residence are covered by the Workers' Compensation Act under any one of the following circumstances:

- (1) While employed in an orchard, in a vineyard, or on a farm primarily devoted to the production of fruit, vegetables, potatoes, sugarbeets, or vegetable seeds.
- (2) While employed by an employer whose gross annual payroll for the preceding year equals or exceeds the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (3) While employed by a farm operator or labor contractor who employs migrant workers performing the same work, at the same time, and at the same location.

OTHER AGRICULTURAL WORKERS — For year-round farm employees and other non-seasonal, non-temporary agricultural employees, coverage extends to only those employees employed by an employer for whom either of the following applies:

- (1) Had a gross annual payroll in the preceding year at or above the state-prescribed adjusted gross annual payroll requirement for coverage of seasonal workers (\$54,783 in 2017).
- (2) Employs 3 or more farm or ranch laborers other than migrant or seasonal workers.

As used above, the term "gross annual payroll" includes amounts paid by the farm operator for the services of migrant and seasonal farmworkers and farm labor contractors, but it does not include wages paid to the farmer's family members or business partners.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge or in any other way discriminate against an employee because the employee has filed a workers' compensation claim or testified in a related proceeding. An employee who is subjected to retaliation may be entitled to damages and reinstatement.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Division of Workers' Compensation, Texas Department of Insurance, Austin, Texas 78744 (512-804-4000)*. The Workers' Compensation Division is responsible for assuring compliance with the Workers' Compensation Act by employers, insurance carriers, and claimants. Whenever an employer secures workers' compensation insurance coverage, the insurance carrier must notify the Division, and employers are required to submit to the Division a report of any accident resulting in injury to an employee which results in absence from work for more than one day. The agency is authorized to resolve all disputes between claimants, employers and insurance carriers regarding eligibility for compensation, duration of benefits, and related issues. As a rule, a job injury must be reported to the employer within 30 days after its occurrence to preserve the validity of a compensation claim based on the injury, and compensation is generally not payable unless a claim has been filed with the Division within one year after the injury or the onset of disability due to an occupational disease.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None*.

Utah

WORKERS' COMPENSATION ACT

STATUTORY CITATION: Utah Code §§ 34A-2-101 – 34A-10-1005

GENERAL SUMMARY: Every employee covered by the state workers' compensation law who is injured in an employment-related accident is entitled to cash compensation for any loss in connection with the injury, as well as medical, nursing and hospital services, and medicines; if the accident results in death, cash benefits and funeral expenses are generally payable to the worker's surviving dependents. The responsibility for payment of compensation and related costs for on-the-job injury or death is on the employer, who must meet that liability by (1) paying premiums to the state worker's compensation fund, (2) purchasing and keeping current a workers' compensation insurance policy through a private insurance carrier, or (3) furnishing the state administering agency with proof of financial ability to pay compensation directly.

Employers who comply with the duty to secure compensation are generally protected against any further liability with respect to a worker's injury on the job, and the worker or worker's dependents are assured of benefits without the need for litigation. On the other hand, an employer who fails to provide for the payment of benefits may be sued for damages by an injured worker or an injured worker's dependents, and such an employer may not claim as a defense that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury. Furthermore, the state agency has authority to file suit to enjoin any uninsured employer from further business operations in Utah.

With some exceptions, the Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: Under considerably more restrictive conditions than those in most other industries, the Workers' Compensation Act applies only to those farmworkers covered by the state unemployment insurance program, described in the previous entry. Consequently, only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year, are required to have workers' compensation coverage. Farmworkers who are injured while performing labor for such an establishment are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).* It is the responsibility of the Division to assure that employers subject to the workers' compensation law meet their liability to provide coverage, and to see that each eligible claimant receives full and timely benefits, either from the state fund, the employer's private insurance carrier, or the self-insured employer. In general, an employee who suffers injury on the job should notify the employer promptly; compensation is barred altogether unless notice of injury is given to the employer within 180 days of the accident that led to the injury.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

UTAH OCCUPATIONAL DISEASE ACT

STATUTORY CITATION: Utah Code §§ 34A-3-101 – 34A-3-113

GENERAL SUMMARY: The Utah Occupational Disease Act requires most employers in the state to pay compensation and associated medical costs in the event of an employee's disability or death from an occupational disease. An employer may meet the liability for these benefits by obtaining occupational disease compensation insurance through the state or a private insurance carrier, or by qualifying as a self-insurer by furnishing the state with evidence of financial ability to pay benefits directly.

Covered workers who are totally disabled by an occupational disease contracted in the course of employment are generally entitled to cash compensation, medical and hospital care, and medicines. If death results from the disabling condition, benefits are payable to the worker's surviving dependents, as are prescribed burial expenses.

In most industries in Utah, the Occupational Disease Act applies to employers who regularly employ one or more workers in the same business or establishment.

PROVISIONS APPLICABLE TO AGRICULTURE: The Occupational Disease Act applies to only those farm operators and other agricultural establishments that (1) paid \$20,000 or more in cash wages for agricultural labor in any calendar quarter of the current or preceding calendar year, or (2) employed 10 or more workers in agricultural labor for some part of a day in each of 20 different calendar weeks in the current or preceding calendar year. Farmworkers who contract a disease or illness that arises out of — and is medically caused or aggravated by — employment for such an employer, are generally entitled to compensation benefits, medical treatment, and related services at the employer's expense.

SPECIAL NOTES OR ADVISORIES

LIABILITY OF CREW LEADERS AND LABOR CONTRACTORS — In cases where farmworkers performing agricultural labor are

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furnished to a farm operator by a crew leader who (1) is registered under the Migrant and Seasonal Agricultural Worker Protection Act, (2) pays members of the crew their earnings, and (3) has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator, the crew leader is treated as the workers' employer. Under any other circumstances, crew members are considered employees of the farm operator, and wages paid to the workers by the crew leader are deemed to be wages paid by the farm operator.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Industrial Accidents Division, Utah Labor Commission, Salt Lake City, Utah 84114 (801-530-6800; toll-free 800-530-5090).*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Vermont

● EMPLOYER'S LIABILITY AND WORKERS' COMPENSATION LAW

STATUTORY CITATION: Vt. Stat. Title 21, §§ 601 – 711

GENERAL SUMMARY: Under the state workers' compensation law, if a worker receives a personal injury by accident arising out of and in the course of employment, the employer or the employer's insurance carrier must pay compensation for the injury. In addition to cash payments to compensate for the worker's lost earning capacity, the employer or insurer is also responsible for furnishing the job-related accident victim with medical, surgical, hospital and nursing services and supplies necessary for treatment of or recovery from the injury.

To meet their liability under the law, employers are required to either maintain a policy of workers' compensation or equivalent insurance, or provide the state with evidence of their financial ability to pay compensation directly. In the event a worker is injured in an accident while working for an employer who has failed to comply with this requirement, the worker may elect either to claim workers' compensation or to sue the employer for full damages; in any such lawsuit, the employer loses the right to claim that the injury was caused by the negligence of another employee, or that the employee assumed the risk inherent in the employment.

The law applies, with some exceptions, to any worker employed by any employer.

PROVISIONS APPLICABLE TO AGRICULTURE: Each farm operator or other agricultural establishment whose aggregate payroll in a calendar year is \$10,000 or more is subject to the workers' compensation law, and any worker engaged in agricultural services for such an employer is entitled to compensation and medical care in the event of injury on the job. If the injury contributes to the worker's death, benefits are payable to the worker's surviving dependents.

SPECIAL NOTES OR ADVISORIES

RETALIATION — No person may discharge or discriminate against an employee because the employee has asserted a claim for workers' compensation benefits, and it is similarly unlawful for an employer to refuse to employ a job applicant on grounds that the applicant has filed a claim. Any such act of retaliation or discrimination should be reported to the state attorney general.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Division, Vermont Department of Labor, Montpelier, Vermont 05601 (802-828-2286)*. It is the duty of the Department to assure that employers subject to the workers' compensation law comply with the obligation to secure coverage for their employees, and to see that benefits are dispensed in accordance with prescribed standards. A worker who is injured on the job (or the dependents of a worker who dies from a job-related accident) must promptly notify the employer of the occurrence of the accident. In general, no claim for compensation is valid unless it is filed with the employer within 6 months after the injury or death of the worker. Any dispute regarding the eligibility of an individual for workers' compensation benefits, or the amount or duration of such benefits, may be referred to the Department for hearing and resolution.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *Civil Rights Unit, Vermont Attorney General's Office, Montpelier, Vermont 05609 (802-828-3657, toll-free 888-745-9195)*. This agency enforces the anti-retaliation provision in the workers' compensation law.

Virginia

● VIRGINIA WORKERS' COMPENSATION ACT

STATUTORY CITATION: Va. Code §§ 65.2-100 – 65.2-1206

GENERAL SUMMARY: The Virginia Workers' Compensation Act makes most employers in the state liable for the payment of compensation in the event of personal injury or death of an employee in a job-related accident, or for the disablement or death of a worker from an occupational disease. In addition, employers must cover the cost of medical attention and vocational rehabilitation required as a result of the accident or disease.

Every employer subject to the Act must insure the liability to pay compensation by (1) purchasing a prescribed workers' compensation insurance policy and keeping it in effect, (2) obtaining membership in a licensed group self-insurance association, (3) providing the state with proof of financial ability to pay compensation directly, or (4) entering into an agreement with a professional employer organization. An employer who complies through one of these four options is generally protected against all further claims in connection with a compensable injury, illness or death, and the worker or worker's dependents have no further legal recourse. On the other hand, an employer's refusal or neglect to secure workers' compensation coverage is punishable by a fine of up to \$50,000 and exposes the employer to a damage suit for each occupational injury or disease that may occur; in any such suit the Act strips the employer of the right to claim as a defense that the injury resulted from the worker's negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury or disease.

With some exceptions, the requirements of the act apply to employers with 3 or more employees.

PROVISIONS APPLICABLE TO AGRICULTURE: Farm operators and other agricultural establishments that regularly employ more than 3 full-time employees are subject to the Workers' Compensation Act, and farmworkers performing services for such an employer are entitled to compensation for lost wages and medical treatment for injury on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer is prohibited from firing an employee solely because the employee has filed or intends to file a workers' compensation claim, or because the employee has testified or is about to testify in any workers' comp-related proceeding. A worker who has suffered from such retaliation may bring civil action against the employer for damages, using a private attorney or public legal service provider.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Virginia Workers' Compensation Commission, Richmond, Virginia 23220 (toll-free 877-664-2566).* The Commission is responsible for assuring that employers subject to the Act secure workers' compensation insurance or have alternative means of providing compensation for their employees, and for seeing that eligible claimants receive the benefits to which they are entitled. The right to benefits may be lost unless the employee files a claim with the Commission within 2 years from the date of the accident (or, in the case of an occupational disease, within 2 years from the date the doctor tells the employee the disease is work-related, or 5 years from the date the employee was last exposed to the work condition causing the disease, whichever is sooner). A worker who has suffered an injury in connection with employment (or the dependent of any worker killed or injured on the job) who disputes or questions a decision by an employer or insurance carrier concerning workers' compensation coverage, eligibility or benefits, may apply to the Commission for a hearing.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Washington

● INDUSTRIAL INSURANCE LAW

STATUTORY CITATION: Wash. Rev. Code §§ 51.04.010 – 51.98.070

GENERAL SUMMARY: Each worker who is injured in the course of employment or who contracts an occupational disease is entitled to receive medical treatment, wage replacement benefits if unable to work, and other compensation. If the injury or disease leads to the worker's death, compensation is payable to the worker's surviving dependents. A worker who is injured on the job has the right to necessary medical, surgical and hospital services until reaching maximum medical improvement. These benefits are payable without regard to fault and in lieu of the worker's right to legal action against the employer in connection with the injury or disease.

To finance the state industrial insurance program, most employers are required to (1) pay quarterly premiums to the state workers' compensation fund, or (2) qualify as a self-insurer. One-half the cost of the medical portion of the premium can be deducted and withheld from the employees' wages for those covered by the state fund. Cost-of-living adjustments for wage replacement and pension benefits are paid from the state supplemental pension fund, and these premiums are paid equally by employers and workers.

PROVISIONS APPLICABLE TO AGRICULTURE: The industrial insurance law applies to all agricultural employers with one or more employees, and protects all agricultural workers, to the same extent as their counterparts in other covered industries.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – Insurance Services Division, Washington State Department of Labor and Industries, Olympia, Washington 98504 (360-902-5800). The Department is responsible for determining the liability of employers for industrial insurance premiums, collecting premiums from subject employers, determining the eligibility of injured workers or their dependents for compensation benefits, paying compensation to eligible workers and beneficiaries, and overseeing the medical, surgical and hospital treatment of covered employees. It is the worker's duty to promptly report to the employer any job-related accident which affects the worker, and the employer must in turn notify the Department whenever an accident results in an employee's injury, hospitalization, disability or death. Medical providers are required to assist the worker with filing a workers' compensation claim.

Any worker injured on the job, or the dependent of any such worker, may file a claim or application for compensation with the Department (or with the employer, if the employer is self-insured). In general, no claim is enforceable unless filed within one year after occurrence of the injury or death on which the claim is based.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – None.

West Virginia

● WORKERS' COMPENSATION LAW

STATUTORY CITATION: W. Va. Code §§ 23-1-1 – 23-6-3

RELATED REGULATIONS: W. Va. Code R. § 85-8

GENERAL SUMMARY: With some exceptions, every employer in West Virginia is required to obtain workers' compensation coverage for the protection of its employees. A West Virginia workers' compensation insurance policy must provide for the payment of medical costs, disability benefits, and vocational rehabilitation for workers who have sustained a personal injury or contracted an occupational disease in the course of any employment covered by the workers' compensation law. Policies must also provide benefits to the surviving dependents of any such worker who dies as a result of a compensable injury or disease.

Any subject employer who purchases and maintains workers' compensation insurance coverage, or who qualifies as a self-insurer, is relieved of all liability for damages for the injury or death of an employee. On the other hand, an employer who fails to obtain insurance or is in default on payment of premiums may be sued by an employee or an employee's dependents for damages in the event of the worker's injury or death, and in any such suit the employer is barred from using as a defense the fact that the injury was caused by the worker's own negligence or the negligence of a co-worker, or that the worker had assumed the risk that led to the injury.

PROVISIONS APPLICABLE TO AGRICULTURE: Every farm operator or other agricultural establishment with more than 5 full-time workers performing agricultural services is required to obtain and maintain workers' compensation insurance. In turn, any full-time, part-time or seasonal farmworker who is employed by such an establishment is generally entitled to disability compensation and medical benefits for injury sustained on the job.

SPECIAL NOTES OR ADVISORIES

RETALIATION — An employer may not discharge, discipline, refuse to hire, or discriminate in any other manner against an individual because the individual has filed a workers' compensation claim or received workers' compensation benefits.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Offices of the Insurance Commissioner, West Virginia Department of Revenue, Charleston, West Virginia 25302 (304-558-3029).* It is the Commissioner's responsibility to enforce the payment of premiums by employers subject to the workers' compensation law, and assure the payment of compensation and medical benefits for job-related injuries. An employee who is injured at work should promptly report the accident to the employer, who in turn must notify his or her workers' compensation insurance carrier. A worker who is injured on the job and does not receive the medical attention or disability benefits required under this law may file a complaint with the Commissioner's office, by calling 888-879-9842. The complaint form may be obtained online, at www.wvinsurance.gov.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wisconsin

● WORKER'S COMPENSATION ACT

STATUTORY CITATION: Wis. Stat. §§ 102.01 – 102.89

GENERAL SUMMARY: With some exceptions, the Worker's Compensation Act requires employers who regularly have 3 or more employees, or who pay wages amounting to \$500 or more in any calendar quarter, to carry workers' compensation insurance in case of an employee's injury or death in the course of employment. Employers with 3 or more employees must obtain insurance immediately upon employing a third person, while an employer who pays \$500 or more in a calendar quarter must obtain insurance by the 10th day of the first month of the next calendar quarter.

Among the benefits to which covered employees are entitled in the event of a work-related injury are (1) coverage of all reasonable and necessary medical costs, (2) cash payments for temporary loss of wages while the employee is recovering from the injury, (3) cash payments for permanent disability if the employee does not fully recover from the injury, (4) vocational rehabilitation, and (5) death benefits and payment of burial expenses if death occurs as a result of the injury.

An employer who does not comply with the responsibility to insure the payment of compensation is subject to a civil penalty and possible closure of the business, and becomes personally liable for uninsured benefit claims for which the injured employee is eligible.

PROVISIONS APPLICABLE TO AGRICULTURE: A farm operator or other farming establishment that employs 6 or more employees at one or more locations, working on the same day for 20 or more days during a calendar year, is required to secure workers' compensation insurance within 10 days after the 20th such day.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Worker's Compensation Division, Wisconsin Department of Workforce Development, Madison, Wisconsin 53707 (608-266-1340).* It is the Department's duty to see that all employers subject to the Worker's Compensation Act secure coverage for the protection of their employees, and that claims are processed and benefits are paid in conformity with statutory standards.

An injured employee should give notice to the employer within 30 days of any injury, or, in the case of an occupational disease, within 30 days of the time the employee becomes aware of the disability and its relation to the employment. If notice is not given within 30 days, the worker may give notice anytime within 2 years of the date the injury occurred, the date of the onset of the disease, or the date the worker first realized that such injury or disease was caused by his or her work.

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*

Wyoming

○ WYOMING WORKER'S COMPENSATION ACT

STATUTORY CITATION: Wyo. Stat. §§ 27-14-101 – 27-14-806

GENERAL SUMMARY: The Wyoming Worker's Compensation Act requires employers who employ individuals in certain specified extra-hazardous occupations to pay workers' compensation premiums to the state. The funds amassed as premiums are used to pay medical and hospital expenses incurred by covered employees who are injured in the course of their employment, and to pay disability or death benefits to such workers or their surviving dependents to offset lost earnings.

Employers who apply to the state for coverage and make required payment of premiums are generally relieved of all liability for the injury or death of an employee on the job, while those who fail to comply are subject to money penalties payable to the state, as well as civil action by injured employees for damages.

PROVISIONS APPLICABLE TO AGRICULTURE: The Worker's Compensation Act **does not apply** to agricultural workers, other than those engaged in logging.

ADMINISTRATION AND ENFORCEMENT

PRIMARY ENFORCEMENT AGENCY – *Workers' Compensation Division, Wyoming Department of Workforce Services, Cheyenne, Wyoming 82002.*

SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY – *None.*