

☉ 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.*