

A US Legal Perspective on Global & Domestic Business Travel: How do the US 50 states' workers' compensation laws protect US businesses and their global and domestic travelers at home and abroad?

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Business Travel by United States companies has grown exponentially over the past years. As a result, both the foreseen and unforeseen liabilities for businesses and their traveling employees raise viable concerns for all involved. Employers yearn to know how duty of care, if any, state law, interstate law, federal law or international law impacts their businesses, employees domestically and overseas, and their potential liability. At the same time, individual employees undertaking the inherent risks of domestic and international travel need to be aware of their potential remedies in dire circumstances. The employee cannot naively assume their company's policies, state laws or even federal laws protect them in any given circumstance. Many different factors come into play when routine business trips take a turn for the worse. These factors include the differing business policies, state workers' compensation laws, insurance, federal law, international law and choice of law between states and nation states. After a full analysis, both business and employee may benefit by exploring optional additional insurance for greater security. As business travel proves to be a core component of a successful business strategy and increased profits, a clear understanding of the aforementioned issues proves to be vital.

According to a recent Global Business Travel Association (GBTA) report, U.S. business travel should continue its steady rise. Business travel spending for 2013 is expected to reach \$273.3 billion according to the GBTA BTI Outlook. This would be a 4.3% increase from 2012. The GBTA report further finds that the increase in travel spending after accounting for travel price inflation is projected to hit 1.3% this year in contrast to .3% in 2012. Further, international outbound business travel spending is expected to grow 3.0% in 2013 to \$33.1 billion. Group travel spending is also expected to continue to grow in 2013 by 5.3% to \$117.1 billion. (Rebecca Carriero, *Latest GBTA Report Finds that U.S. Business Travel Should Continue Its Steady Rise*, (July 9, 2013), http://www.gbta.org/foundation/pressreleases/Pages/rls_070913.aspx.) It has been reported that industries increasing spending on travel increase profits, nearly tripling their return on profits for each dollar spent on business travel. (*New Research Shows the Effect of Sustained Investment in Business Travel*, Business Travel ROI (May 2013), <http://www.ustravel.org/news/business-travel-roi>.)

The travel industry has, on average, created more than 12,000 jobs a month thus far in 2013 which is 50 percent more than the average gain of 8,000 travel jobs per month in 2012. Travel jobs have made up more than six percent of total jobs added in 2013. "Since early 2010, the travel industry has been a significant source of employment growth for the economy by adding almost half a million jobs. Moreover, the increase in travel industry jobs has outpaced that of the rest of the economy, making up

92 percent of the jobs lost during the recession compared to 77 percent of jobs for the rest of the economy.” (David Huether, *Travel Industry Adds Jobs At Faster Rate in 2013*, U.S. Travel Association (Aug. 2, 2013), <http://www.ustravel.org/news/press-releases/travel-industry-adds-jobs-faster-rate-2013>.) Of the estimated 27,351,000 U.S. citizens traveling internationally in 2004, 28.2% indicated that business was a reason for their trip. (Clare E. Guse MS, *Fatal Injuries of US Citizens Abroad*, *Journal of Travel Medicine* (Sept. 19, 2007)).

As United States’ businesses continue to expand across state and international borders, potential risks for both the business and the business traveler increase. Some of these risks include roadway accidents, disease, civil unrest, terrorism, kidnapping, natural disasters, air travel risks and many more. The Census of Fatal Occupational Injuries Summary for 2012 showed a preliminary total of 4,383 fatal work injuries were recorded in the United States. (Bureau of Labor Statistics, U.S. Dept. of Labor (Aug. 22, 2013), <http://www.bls.gov/news.release/pdf/cfoi.pdf>.) Of these fatalities 17% were in transportation and 24% roadway related. *Id.* Although these statistics do not specify types of jobs for the fatal injuries, the indication remains that roadway travel increases risk of injury. The National Safety Council estimates that motor vehicle crashes are the number one cause of unintentional workplace deaths in the United States. (*Employer Traffic Safety Program*, National Safety Council, http://www.nsc.org/safety_road/Employer%20Traffic%20Safety/Pages/NationalHome.aspx.) Furthermore, the World Health Organization report on driving in developing countries explains that one in seven countries fails to have adequate road traffic laws to deal with major hazards. An estimated one million people die on the roads worldwide every year. (Jim Atkins, *Killer Roads Are A Major Risk For Expats*, iExpats (Aug.14, 2013), <http://www.iexpats.com/killer-roads-are-a-major-risk-for-expats/>.)

Regarding international business travel, since 2001, 3,357 civilian contractor deaths have been reported as well as 94,727 civilian contractors injured. At least 55 civilian contractor deaths were reported in the second quarter of 2013 and at least 44 civilian contractor deaths were reported in the first quarter of 2013. (*Defense Base Act Workers’ Compensation*, <http://dbacomp.com/defensebaseactcomp/2012/12/31/civilian-contractor-casualty-count/> (Dec. 31, 2012). Each year, more than a million people become sick or injured outside their home country. Traveling overseas on business presents many unique risks arising from language barriers, jet lag, endemic disease and driving hazards. (*Protecting Your Employees Traveling Internationally*, Chubb Group of Insurance Companies, (Dec. 9, 2013), <http://www.chubb.com/businesses/cci/chubb2613.html>.) These statistics exemplify the inherent risks business travel poses to both employer and employee. Navigating and preparing for these risks proves to be crucial for businesses and their traveling employees.

Currently, the United States law provides no one definitive legal precedent holding employers liable for negligence resulting in injuries to employees traveling abroad. (Mark Pestronk, *Dispelling Notions of Legal Duty to Employees Injured Abroad*, *Travel Weekly* (Nov. 3, 2011), <http://www.travelweekly.com/mark-pestronk/dispelling-notions-of-legal-duty-to-employees-injured-abroad/>.) However, United States laws regulating freedoms from discrimination do extend to United States citizens extraterritorially. Title VII of the Civil Rights Act (Title VII), the Americans with Disabilities Act (ADA) and the Age Discrimination in Employment Act (ADEA) protections extend to any United States

citizen employed by United States companies and their sites overseas. Title VII of the Civil Rights Act prohibits discrimination in employment based on race, color, religion, sex, or national origin. These protections extend extraterritorially; however, there is a provision in Title VII stating:

It shall not be unlawful under [Title VII] for an employer (or corporation controlled by an employer)... to take any action otherwise prohibited by such section, with respect to an employee in a workplace in a foreign country if compliance with such section would cause such employer (or such corporation)... to violate the law of the foreign country in which such workplace is located. 42 U.S.C. § 2000e-1(b) (2000)

This section means Title VII allows discrimination in employment based on religion, sex or national origin “in those certain instances where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.” (42 U.S.C. § 2000e-2(e) (2000)). Therefore, it is not a violation of U.S. law for an employer to engage in conduct that ordinarily would constitute illegal behavior if such behavior were required by law where the conduct took place. (Paul Frantz, *International Employment: Antidiscrimination Law Should Follow Employees Abroad*, 14 Minn. J. Global Trade 227 (2005).) However, interpretation of this section weighs heavily on the particular facts of each case as exceptions to employment discrimination prohibitions are extremely unusual.

The Americans with Disabilities Act (ADA) extends civil rights protections to individuals with disabilities guaranteeing equal opportunity for individuals with disabilities in employment, public accommodations, transportation, State and local government services, and telecommunications. (Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 (2000).) The ADA, particularly Title I dealing with employment, extends extraterritorially to United States citizens working for U.S. companies abroad. The ADA also contains a similar exception like Title VII for local laws in host nations for U.S. businesses overseas. Although unlike Title VII, the ADA has no bona fide occupational qualification exception and allows exclusion of persons with disabilities if they cannot perform “essential” job duties with or without “reasonable accommodation.” (42 U.S.C. § 12111(8)(2000); Franz at 250.)

The Age Discrimination in Employment Act of 1967 (ADEA) protects individuals who are 40 years of age or older from employment discrimination based on age. The ADEA’s protections apply to both employees and job applicants. Under the ADEA, it is unlawful to discriminate against a person because of his/her age with respect to any term, condition, or privilege of employment, including hiring, firing, promotion, layoff, compensation, benefits, job assignments, and training. (Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 (2000).) The ADEA extends extraterritorially and also holds the same Title VII limited exception for local laws in host nations. The exception was upheld in *Mahoney v. RFE/RL, Inc.*, when the U.S. District Court for the District of Columbia determined that the discharge in Germany by Radio Free Europe of a U.S. citizen at age 65 was not a violation of the ADEA as it would be in direct conflict with German labor laws mandating retirement at age 65. (*Mahoney v. RFE/RL, Inc.*, 47 F. 3d 447 (D.C. Cir. 1995).)

Other acts do not extend extraterritoriality. A presumption against U.S. laws extending extraterritorially defers to foreign law in order to avoid international discord. The Supreme Court has

cited policy concerns including protections against conflicts between laws of the U.S. and those of other nations. (Franz) The Family and Medical Leave Act of 1993 (FMLA) exemplifies a U.S. protection not extended extraterritorially. (*Souryal v. Torres Advanced Enterprise Solutions, L.L.C.*, 847 F. Supp. 2d 835 (2012).) The United States District Court for the Eastern District of Virginia held that a U.S. employee working at the Embassy in Baghdad, Iraq, was not entitled to FMLA protections because the Embassy was not included in the definition of U.S. territory.

While U.S. citizens employed by a U.S. owned or controlled company overseas continue to be covered by the aforementioned U.S. anti-discrimination laws, they may also be protected by the national laws of the host country, international law and labor agreements or voluntary codes of corporate conduct. (David A. Lowe, *Employment Rights of American Workers Abroad*, Vol. 24, No. 2 *The Labor Lawyer* 213-221 (2008).) Generally, Americans working abroad are likely to be protected by the employment laws of their host country. (*Id.*) Yet it is important to note that both American courts and foreign labor tribunals will assess whether a U.S. citizen is actually “working” in the country or is there on a temporary assignment in order to be protected by the host country’s laws. (*Id.*) Regarding international laws, the United Nations established conventions prohibiting forced labor and other human rights abuses, and the International Labor Organization (“ILO”) adopted 176 conventions relating to international labor standards. (*Id.*) However, these conventions are only binding on ratifying member countries. Currently, the United States has not adopted any significant ILO conventions except for the one outlawing forced labor (*Id.*).

Some countries may require employers to have legally binding voluntary labor agreements for employment protection. (*Id.*) Furthermore, some multinational employers have adopted corporate codes of conduct guaranteeing a safe and healthy workplace, freedom from discrimination, minimum wages, reasonable limitations on work hours, the right to engage in collective bargaining, and prohibition on child labor or forced labor. (*Id.*) Examples of corporate codes of conduct include the U.S. Model Business Principles announced by the Clinton Administration and the U.S. Department of Commerce in 1996, the Universal Business Principles issued by the American Chamber of Commerce in Hong Kong, the Organization for Economic Cooperation Development’s Guidelines for Multinational Corporations, and the Global Sullivan Principles. (*Id.*) However, following these corporate codes and guidelines as well as most international labor standards remains voluntary and often difficult to enforce through judicial systems. (*Id.*)

Several noteworthy points, all beyond the scope of this article, include whether a foreign entity is "controlled" by a U.S. corporation (especially pertaining to mergers and acquisitions) and whether an employee is a U.S. citizen versus a U.S. permanent resident. (See Franz, Lowe and Dowling) Congress specifically limited application of U.S. antidiscrimination law to cover only foreign entities that are U.S. controlled. Whether a foreign entity is "controlled" by a U.S. corporation depends on whether the two entities share interrelationship of operations, common management, centralized control of labor relations, and common ownership and financial control. (David A. Lowe, *LABOR AND EMPLOYMENT LAW: Enforcing the Employment Rights of American Workers Abroad*, American Bar Association, (Sept. 2009),

https://www.americanbar.org/newsletter/publications/gp_solo_magazine_home/gp_solo_magazine_in dex/2009_sept_labor.html.) This is important to note especially with acquisitions and mergers. After the

closing, a U.S. domestic buyer company will “control” the overseas units of the target and then the U.S. anti-discrimination and harassment laws will cover any U.S. citizens working abroad. (Donald C. Dowling, Jr., How to Ensure Employment Problems Don’t Torpedo Global Mergers and Acquisitions, 13 DePaul Bus. L.J. 159 (2000).) It is also important to distinguish between the application of extraterritorial protections between U.S. citizens and those that only hold the status of lawful permanent residents of the U.S. (See Franz)

The predominant U.S. laws regulating the responsibility of the employer for the injured workers are federal and state workers’ compensation laws. Workers' compensation provides cash benefits and medical care to employees who are injured on the job and survivor benefits to the dependents of workers whose deaths result from work-related incidents. Prior to the enactment of workers' compensation laws, a worker's sole legal remedy for a work-related injury was bringing a tort suit against the employer to prove the employer's negligence caused the injury. Under the tort system, workers often failed to recover damages and experienced delays or high costs even when successfully recovering damages. Though employers often prevailed in court, they were subject to the risks of large and unpredictable losses when workers' suits were successful. Eventually, both employers and workers favored legislation to ensure that workers sustaining occupational injuries or diseases arising out of or in the course of employment would receive predictable compensation without delay, regardless of fault. In return, the employers' liability was limited. Under the "exclusive remedy" concept in workers' compensation, the worker accepts program payments as compensation in full and gives up the right to sue for damages. (Ishita Sengupta and Virginia Reno, *Brief history of WC and origins*, www.ssa.gov.)

The first U.S. workers' compensation law was enacted in 1908 to cover federal civilian employees engaged in hazardous work. (*Id.*) The rest of the federal workforce was covered in 1916. (*Id.*) In 1911, nine states enacted workers’ compensation laws. By 1921, most states, except for six states and the District of Columbia, had workers' compensation laws. Currently each of the 50 states has its own program, as do the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. Federal laws provide benefits to coal miners with black lung disease and certain energy employees exposed to hazardous material. The laws also set rules for federal workers' compensation programs covering persons outside the jurisdiction of individual states, such as longshore and harbor workers and individuals working overseas for companies under contract with the U.S. government. (*Id.*)

The Office of Workers’ Compensation Programs (OWCP) Division of Longshore and Harbor Workers’ Compensation administers the Defense Base Act. The Defense Base Act (DBA) requires workers’ compensation insurance and medical benefits be provided to all eligible civilian workers working outside the U.S. for private employers pursuant to their employer’s contract with the United States government. The best illustration for this is when private employers are providing services on U.S. military bases abroad. For example, the DBA covers workers supporting the mission in Afghanistan, as well as those working for employers with United States Agency for International Development contracts assisting in projects around the world. The act requires these employers to provide insurance coverage for their workers, regardless of nationality, before beginning overseas operations. (Gary Steinberg and Miranda Chiu, *Keeping Contract Workers Safe, Worldwide*, (Work in Progress)The Official

Blog of the U.S. Department of Labor (January 31, 2013), [http://social.dol.gov/blog/keeping-contract-workers-safe-worldwide/.](http://social.dol.gov/blog/keeping-contract-workers-safe-worldwide/))

However, DBA benefits can only be ensured to civilian workers if the contracting officers include DBA insurance in all U.S. service contracts awarded to private employers overseas. Before 2003, the small number of private employers under contract with the U.S. overseas, as well as the contracting officers administering the DBA, were familiar with these requirements. With an increase in U.S. operations in Southwest Asia and other parts of the world, many new employers and contracting officers remain unaware of the DBA requirements which results in omissions and unfavorable government audit reports. (*Id.*) It may prove to be beneficial to contact the Office of Workers' Compensation Programs to better understand the act's key provisions.

Workers' compensation programs vary among the fifty states. Generally, state laws require employers to obtain workers' compensation insurance or prove that they have the financial ability to carry their own risk (self-insure). (See *supra* Sengupta and Reno) Regarding interstate or international business travel, it is important to note whether the workers' compensation code pertaining to a particular state extends extraterritorially. In many instances they do. Often a business worker injured while traveling may eventually engage in forum shopping for the best state workers' compensation relief or even loopholes in the Workers' Compensation statutes to sue for greater recovery.

The use of forum shopping by the injured business travelers in Florida led to the passage Florida's revised Workers' Compensation extraterritorial section. The passage of this section proved to be controversial among NFL (National Football League) enthusiasts. The Jacksonville Jaguars, the Orlando Magic and other professional sports teams in Florida led to change Florida workers' compensation law to better benefit employers. (Drew Roberts CPCU, ARM, Jacksonville Jaguars & Orlando Magic Change Workers Comp Law, (Jun. 1, 2011), [http://www.floridawc.com/insurance/jacksonville-jaguars-orlando-magic-change-workers-comp-law/.](http://www.floridawc.com/insurance/jacksonville-jaguars-orlando-magic-change-workers-comp-law/)) The legislation (House Bill 723) passed unanimously through the Florida Legislature, approved by Governor Scott on June 17, 2011 and went into effect on July 1, 2011. (*HB 723 Relating to Extraterritorial Reciprocity in Workers' Compensation Claims (2011 Session)*, Lobby Tools (2011), [http://public.lobbytools.com/index.cfm?type=bills&id=31203.](http://public.lobbytools.com/index.cfm?type=bills&id=31203)) The new section, entitled "Extraterritorial Reciprocity" - Chapter 440 of the Florida Workers' Compensation Statutes, was aimed at preventing workers who are injured while temporarily working in another state from pursuing their claim against their employer in those states. (See Roberts) Prior to the enactment of this section many injured workers were filing their claims in California to invoke California's more liberal benefits for workers compensation. For example, out of the 224 games played by the Jacksonville Jaguars, only 5 were played in California stadiums, yet; 95 percent of their injured players filed for benefits in California. (See Roberts)

This legislation also benefits other Florida employers because when their employees are injured in the course and scope of employment in another state, for short term travel of under 10 days or under 25 days in the year, the employee is still entitled to benefits as if he or she were injured in Florida. (*Id.*) The new section further provides "reciprocity" with other states carrying similar legislation. Florida's new section therefore benefits employers by limiting forum shopping for their employees injured while

traveling out of state. However, if an employer has an employee who consistently travels out of state several times a week or a month for the employer exceeding the maximum 25 days total in a calendar year, this law may not apply to them.

Most Workers' Compensation laws usually limit coverage of workers' injuries to those occurring "in the course and scope of employment". Since each state's laws specifically define coverage in these instances, it is important to note the relevant state laws where coverage is being sought. For example, if an injured worker is seeking coverage under Texas state law, "course and scope of employment" is defined as an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. TEX. LAB. CODE ANN. § 401.011(12). Course and scope of employment includes an activity conducted on the premises of the employer or at other locations. However, this definition in Texas alone has multiple expanded interpretations and exceptions. Case law further defines the nuances of the term "course and scope of employment" as it pertains to a plethora of fact patterns including "any accident that is due directly and exclusively to natural causes without human intervention and which no amount of foresight, pain or care, reasonably exercised, could have prevented". (see TEX. LAB. CODE ANN. § 406.032(1)(E) and *Transport Ins. Co. v. Liggins*, 625 S.W.2d 780, 782-83 (Tex. App.—Fort Worth 1981, writ ref'd n.r.e.). Therefore, defining "course and scope of employment" remains state, and perhaps even case, specific when determining if an injury is covered.

Generally, some state workers' compensation laws provide coverage time limits for when an employee is defined as "temporarily" working out of the state, while other states do not. It is important to note that there is a difference between workers temporarily working outside the state and workers that go beyond time limitations provided by certain state laws and those who relocate to other countries becoming "expatriates". Expatriates are generally hired and paid out of the home country and are assigned to work at a foreign location. "Expatriates" refer to United States citizens working and living for a period of time outside the United States. Some states provide guidelines to determine how long an employee traveling temporarily out of the state is covered, for example Oregon state law provides the following:

436-050-0055 Extraterritorial Coverage

1. Criteria to be used in determining whether a worker is temporarily in or out of state pursuant to ORS 656.126 may include, but are not limited to:
 - a. The extent to which the worker's work within the state is of a temporary duration;
 - b. The intent of the employer in regard to the worker's employment status;
 - c. The understanding of the worker in regard to the employment status with the employer;
 - d. The permanent location of the employer and its permanent facilities;
 - e. The circumstances and directives surrounding the worker's work assignment;
 - f. The state laws and regulations to which the employer is otherwise subject;
 - g. The residence of the worker;

- h. The extent to which the employer's work in the state is of a temporary duration, established by a beginning date and expected ending date of the employer's work; and
 - i. Other information relevant to the determination.
2. Within 30 days after coverage of an Oregon employer is effective, the insurer providing the coverage shall notify the employer in writing of the provisions of ORS 656.126

While some states like Oregon offer statutory guidelines to determine how long the worker is considered "temporarily" out of state, and therefore covered, other states like Florida clearly provide time limits on their state coverage. Florida time limits are covered in the following provision:

7. For purposes of this section, an employee is considered to be temporarily in a state doing work for an employer if the employee is working for his employer in a state other than the state where he or she is primarily employed, for no more than 10 consecutive days, or no more than 25 total days, during a calendar year. (FLA. STAT. tit. 31, § 440.094 (2012))

One way to ensure coverage past state definitions of "temporary" is to purchase additional insurance. Some insurance companies recommend that employers with employees working regularly in other states to have the "Other States" section of the workers compensation policy apply to all states except the monopolistic state fund states (North Dakota, Ohio, Washington, West Virginia, and Wyoming). (Jeffrey W. Cavnac, CPCU, RPLU, Workers Compensation Insurance: Extraterritorial Exposures, (Dec. 2003), <http://www.cavnac.com/publications/publications-commercial-client-commercial-insurance-updates/commercial-insurance-update-workers-compensation-insurance-extraterritorial-exposures/>.) Where this option is not available, purchasing separate insurance in each state where the employer has significant operations remains another option. (Id.). Four states require employers to purchase workers' compensation insurance from a state "fund" and do not permit employers to provide private workers' compensation coverage: North Dakota, Ohio, Washington and Wyoming. These states do not provide coverage for lawsuits that might be brought against an employer as the result of an employee's injury or death, but the appropriate coverage could be provided on a separate policy. (Chris W. Peterie, Workers Compensation Coverage in Texas and Other States, SwingleCollins & Associates (Dec. 3, 2012), <http://www.swinglecollins.com/hiring-or-sending-employees-to-work-in-other-states/>.) An employer with operations in a monopolistic state who has purchased the required state workers compensation coverage in that state could benefit by having a stop-gap coverage endorsement on its general liability or standard workers compensation policy to extend employers liability coverage to the monopolistic state fund state. (See Cavnac)

For employees regularly working overseas, employers could purchase a foreign voluntary workers compensation policy. This policy provides benefits to the covered employee injured while on assignment outside the United States equivalent to those provided by the workers compensation law of the employee's home state. (Id.) Coverage under this policy could also extend to foreign citizens hired abroad who are working abroad; yet, employers must remain mindful of the host country's employment laws. (Id.) A foreign voluntary workers compensation policy could provide additional benefits, such as,

24 hour coverage when an employee is out of the country. This coverage exceeds the regular coverage limited to injuries arising out of or in the course of employment. These policies offer further coverage for endemic disease and repatriation expense. (Id.)

Additionally, some insurance companies do not automatically exclude War or Terrorism Insurance and offer further global medical assistance services where employees traveling overseas can access medical assistance services worldwide. (Protecting Your Employees Traveling Internationally, Chubb Group of Insurance (Dec. 10, 2013), <http://www.chubb.com/businesses/cci/chubb2613.html>.) Under this additional insurance, some insurance companies provide covered employees the following information:

- Finding hospitals and doctors in a given locale.
- Monitoring medical treatment, coordinate medication and facilitate medical payment.
- Arranging emergency medical evacuation and medically necessary repatriation.
- Coordinating transportation for family members to join a hospitalized employee.
- Assisting dependent children and traveling companions.
- Country and city risk ratings and profiles
- Health, medical, safety and security reports per locale
- Medical provider search, contact information and provider reviews
- Information on business conduct, transportation, holidays, currency exchange rates and more
- Personalized, downloadable reports

Additional insurance could also provide “Travel Intelligence Reports” for when key employees need up-to-date, detailed information about international travel. The reports provide information about entry/exit regulations, security, transportation, immunizations, currency and weather. (Id.) Therefore, employers may benefit by purchasing additional insurance to extend coverage extraterritorially past “temporary” definitions for their traveling employees and business.

Overall, the business traveler benefits by understanding coverage under states’ workers’ compensation and knowing whether additional insurance was purchased by the employer to extend coverage beyond “temporary” time definitions. Being aware of the risks of travel, the applicable laws per jurisdiction and the availability of additional insurance prepares and better secures both the business and the business traveler. As business travel continues growing and enhancing profits, it remains important for both the business and the business traveler to fully understand and carefully navigate the risks involved in business travel.

APPENDIX

Cases and Statutory References

1. ALABAMA

Section 25-5-35 of the Alabama state statute entitled "Recovery where accident occurs outside state; effect of compensation under law of another state, etc., upon compensation under this article and Article 3 of chapter, etc.; recovery under this article and Article 3 of chapter for accident occurring within state where employment principally localized outside state", governs the extraterritorial applications of Alabama's Workers Compensation. (ALA. CODE § 25-5-35)

Section 25-5-35

Recovery where accident occurs outside state; effect of compensation under law of another state, etc., upon compensation under this article and Article 3 of chapter, etc.; recovery under this article and Article 3 of chapter for accident occurring within state where employment principally localized outside state.

(a) As used in this section:

(1) The term "United States" includes only the states of the United States and the District of Columbia; and

(2) The term "state" includes any state of the United States or the District of Columbia.

(b) For the purposes of this section, a person's employment is principally localized in this or another state when his employer has a place of business in this or such other state and he regularly works at or from such place of business, or if he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.

(c) An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another such state; and, unless such other state refuses jurisdiction, such agreement shall be given effect under this section.

(d) If an employee, while working outside of this state, suffers an injury on account of which he or, in the event of his death, his dependents, would have been entitled to the benefits provided by this article and Article 3 of this chapter had such injury occurred within this state, such employee or, in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this article and Article 3 of this chapter, provided that at the time of such injury:

(1) His employment was principally localized in this state;

(2) He was working under a contract of hire made in this state in employment not principally localized in any state;

(3) He was working under a contract of hire made in this state in employment principally localized in another state whose workmen's compensation law was not applicable to his employer; or

(4) He was working under a contract of hire made in this state for employment outside the United States.

(e) The payment or award of benefits under the workers' compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this article and Article 3 of this chapter shall not be a bar to a claim for benefits under this article and Article 3 of this chapter; provided that claim under this article is filed within the time limits set forth in Section 25-5-80. If compensation is paid or awarded under this article and Article 3 of this chapter:

(1) The medical and related benefits furnished or paid for by the employer under such other workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this article and Article 3 of this chapter had claim been made solely under this article and Article 3 of this chapter;

(2) The total amount of compensation paid or awarded the employee under such other workers' compensation law shall be credited against the total amount of compensation which would have been due the employee under this article and Article 3 of this chapter, had claim been made solely under this article and Article 3 of this chapter; and

(3) The total amount of death benefits paid or awarded under such other workers' compensation law shall be credited against the total amount of death benefits due under this article and Article 3 of this chapter.

(f) The recovery of any compensation benefits under the law of any other state shall bar any common-law or statutory right of action for damages that an employee or his dependents might otherwise have had against the employer or the officers, directors or employees of the employer as a result of the injury or death on account of which such compensation benefits were paid.

(g) If, as a result of an employment principally localized in another state, an employee of an employer who would have been subject to this article or Article 3 of this chapter, had the contract of employment been entered into in this state for performance in this state, suffers injury or death as a result of an accident occurring in this state, compensation and medical, surgical and hospital benefits on account of such injury or death may be recovered under this article or Article 3 of this chapter.

(Acts 1919, No. 245, p. 206; Code 1923, §7540; Code 1940, T. 26, §259; Acts 1975, 4th Ex. Sess., No. 86, p. 2729, §1.)

Alabama allows coverage for up to 90 days under the workers' compensation insurance covering employees of another state temporarily working in Alabama. (Linda Repp, *Extraterritorial Reciprocity*

Information for All 50 States, <http://www.cbs.state.or.us/wcd/compliance/ecu/etsummary.html>.) Alabama requires any out of state employer operating in Alabama to obtain an all-states endorsement from an insurer licensed for Alabama. (Id.)

2. ALASKA

AS 23.30.011 entitled “Extraterritorial Coverage” extends coverage extraterritorially. This section states that benefits would be provided if at the time of the injury (ALASKA STAT. § 23.30.011 (2007)):

(1)the employee's employment is principally localized in this state; (2) the employee is working under a contract of hire made in this state in employment not principally localized in any state; (3) the employee is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to the employee's employer; or (4) the employee is working under a contract of hire made in this state for employment outside the United States and Canada.

3. ARIZONA

The Arizona Workers’ Compensation statute under section 23-904 entitled “Arizona worker injuries in other state; injury to foreign worker in this state; evidence of insurance; judicial notice of other state's laws” states (ARIZONA STAT. § 23-904 (2013)):

A. If a worker who has been hired or is regularly employed in this state receives a personal injury by accident arising out of and in the course of the worker's employment, the worker is entitled to compensation according to the laws of this state even if the injury was received outside this state.

B. If a worker who is employed in this state and is subject to this chapter temporarily leaves this state incidental to that employment and receives an injury arising out of and in the course of employment, the worker, or beneficiaries of the worker if the injury results in death, is entitled to the benefits of this chapter as though the worker were injured in this state.

C. A worker from another state and the employer of the worker in that other state are exempt from this chapter while that worker is temporarily in this state doing work for an employer if all of the following are true:

1. The employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of a state other than Arizona so as to cover that worker's employment while in this state.

2. The extraterritorial provisions of this chapter are recognized in that other state.

3. Employers and workers who are covered in this state are likewise exempted from the application of the workers' compensation insurance act or similar laws of the other state.

4. The benefits under the workers' compensation insurance act or similar laws of the other state, or other remedies under a similar act or laws, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the worker while temporarily working for that employer in this state.

D. A certificate from a duly authorized officer of the commission, the department of insurance or a similar department of another state certifying that the employer in the other state is insured in that state is prima facie evidence that the employer carries that workers' compensation insurance.

E. If in any appeal or other litigation the construction of the laws of another state is required, the courts shall take judicial notice of the laws of the other state.

F. For purposes of this section, a worker is deemed to be temporarily in a state doing work for an employer if, during the three hundred sixty-five days immediately preceding either the worker's date of injury or, in the case of an occupational disease or cumulative trauma claim, the worker's last date of injurious exposure, the worker performs fewer than ninety continuous days of required services in the state under the direction and control of the employer.

G. If a worker has a claim under the workers' compensation laws of another state, territory, province or foreign nation for the same injury or occupational disease as the claim filed in this state, the total amount of compensation paid or awarded under the other state's workers' compensation laws shall be credited against the compensation due under the workers' compensation laws of this state. The worker is entitled to the full amount of compensation due under the laws of this state. If compensation under the laws of this state is more than the compensation under the laws of the other state, or compensation paid the worker under the laws of the other state is recovered from the worker, the insurer shall pay any unpaid compensation to the worker up to the amount required by the claim under the laws of this state.

H. Claims made after the effective date of this section are subject to this section regardless of the date of injury.

4. ARKANSAS

Arkansas Workers' Compensation extends extraterritorially to employees if their contract for hire was in Arkansas. Arkansas will honor workers' compensation coverage from another jurisdiction for workers of the other jurisdiction in Arkansas on a temporary and incidental basis. (Linda Repp, *Extraterritorial Reciprocity Information for All 50 States*, <http://www.cbs.state.or.us/wcd/compliance/ecu/etsummary.html>.) An employer who sets up a permanent location in Arkansas must obtain Arkansas coverage for Arkansas subject workers. (*Id.*)

5. CALIFORNIA

Section 3600.5 of the California Labor code provides extraterritorial application of California Workers' Compensation (CAL. LABOR CODE § 3600.5):

3600.5. (a) If an employee who has been hired or is regularly employed in the state receives personal injury by accident arising out of and in the course of such employment outside of this state, he, or his dependents, in the case of his death, shall be entitled to compensation according to the law of this state.

(b) Any employee who has been hired outside of this state and his employer shall be exempted from the provisions of this division while such employee is temporarily within this state doing work for his employer if such employer has furnished workmen's compensation insurance coverage under the workmen's compensation insurance or similar laws of a state other than California, so as to cover such employee's employment while in this state; provided, the extraterritorial provisions of this division are recognized in such other state and provided employers and employees who are covered in this state are likewise exempted from the application of the workmen's compensation insurance or similar laws of such other state. The benefits under the Workmen's Compensation Insurance Act or similar laws of such other state, or other remedies under such act or such laws, shall be the exclusive remedy against such employer for any injury, whether resulting in death or not, received by such employee while working for such employer in this state. A certificate from the duly authorized officer of the appeals board or similar department of another state certifying that the employer of such other state is insured therein and has provided extraterritorial coverage insuring his employees while working within this state shall be prima facie evidence that such employer carries such workmen's compensation insurance.

6. COLORADO

The Colorado Workers' Compensation section 8-41-204 provides the following extraterritorial coverage (COLO. REV. STAT. § 8-41-204 (2013)):

8-41-204. Injury outside of state - benefits in accordance with state law.

If an employee who has been hired or is regularly employed in this state receives personal injuries in an accident or an occupational disease arising out of and in the course of such employment outside of this state, the employee, or such employee's dependents in case of death, shall be entitled to compensation according to the law of this state. This provision shall apply only to those injuries received by the employee within six months after leaving this state, unless, prior to the expiration of such six-month period, the employer has filed with the division notice that the employer has elected to extend such coverage for a greater period of time.

Furthermore, all employers performing work in Colorado must have a Colorado endorsement from an insurer licensed in Colorado or else be considered a noncompliant employer. (Linda Repp, Extraterritorial Reciprocity Information for All 50 States, <http://www.cbs.state.or.us/wcd/compliance/ecu/etsummary.html>.)

7. CONNECTICUT

The Connecticut Workers' Compensation Act defines "employee" as follows (CONN. GEN. STAT. § 31-275 (2005)):

(9) (A) "Employee" means any person who:

(i) Has entered into or works under any contract of service or apprenticeship with an employer, whether the contract contemplated the performance of duties within or without the state;

Connecticut case law indicates where the parties to a contract of employment had by their express or implied election made the Connecticut Compensation Act a part of that contract, the employee under such a contract had the right to recover compensation under the Connecticut Act for injury suffered in the course of and arising out of this employment no matter where it occurred. (See *Pettiti v. T.J. Pardy*, 103 Conn. 101 (1925)).

Further, where a contract is made in a state whose law is not extra-territorial and the parties have accepted the Connecticut act, the Connecticut act applies. (*Douthwright v. Champlin et. al.*, 91 Conn. 524 (1917)) and Clarence W. Hobbs, *The Extra-territorial Application of Compensation Acts*, 1936.)

8. DELAWARE

Section 2303 of Delaware's Workers' Compensation provides (DEL. CODE ANN. tit. 19 § 2303):

§ 2303. Territorial application of chapter.

(a) If an employee, while working outside the territorial limits of this State, suffers an injury on account of which the employee, or in the event of the employee's death the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this State, such employee, or in the event of the employee's death resulting from such injury the employee's dependents, shall be entitled to the benefits provided by this chapter, provided that at the time of such injury:

(1) The employee's employment is principally localized in this State; or

(2) The employee is working under a contract of hire made in this State in employment not principally localized in any state; or

(3) The employee is working under a contract of hire made in this State in employment principally localized in another state whose workers' compensation law is not applicable to the employee's employer; or

(4) The employee is working under a contract of hire made in this State for employment outside the United States and Canada.

(b) The payment or award of benefits under the workers' compensation law of another state, territory, province or foreign nation to an employee or the employee's dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, provided that claim under this chapter is filed within 2 years after such injury or death. If compensation is paid or awarded under this chapter:

(1) The medical and related benefits furnished or paid for by the employer under such other workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(2) The total amount of all income benefits paid or awarded the employee under such other workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter had claim been made solely under this chapter;

(3) The total amount of death benefits paid or awarded under such other workers' compensation law shall be credited against the total amount of death benefits under this chapter.

(c) If an employee is entitled to the benefits of this chapter by reason of an injury sustained in this State in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or the employer's carrier may file with the Department a certificate, issued by the commission or agency of such other state having jurisdiction over workers' compensation claims, certifying that such employer has secured the payment of compensation under the workers' compensation law of such other state and that with respect to said injury such employee is entitled to the benefits provided under such law. In such event:

(1) The filing of such certificate shall constitute an appointment by such employer or the employer's carrier of the Department as its agent for acceptance of the service of process in any proceeding brought by such employee or the employee's dependents to enforce the employee's or dependents' rights under this chapter on account of such injury;

(2) The Department shall send to such employer or carrier, by certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the Director by the employee or the employee's dependents in any proceeding brought to enforce the employee's or dependents' rights under this chapter;

(3)a. If such employer is a qualified self-insurer under the workers' compensation law of such other state, such employer shall, upon submission of evidence, satisfactory to the Department, of its ability to meet its liability to such employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

b. If such employer's liability under the workers' compensation law of such other state is insured, such employer's carrier, as to such employee or the employee's dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; provided, however, that unless its contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of such benefits for which such insurer would have been liable under the workers' compensation law of such other state;

(4) If the total amount for which such employer's insurance is liable under paragraph (c)(3) of this section is less than the total of the compensation benefits to which such employee is entitled under this

chapter, the Department may, if it deems it necessary, require the employer to file security, satisfactory to the Department, to secure the payment of benefits due such employee or the employee's dependents under this chapter; and

(5) Upon compliance with the preceding requirements of this subsection, such employer, as to such employee only, shall be deemed to have secured the payment of compensation under this chapter.

(d) As used in this section:

(1) "United States" includes only the states of the United States and the District of Columbia.

(2) "State" includes any state of the United States, the District of Columbia, or any province of Canada.

(3) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law.

(4) A person's employment is principally localized in this or another state when:

a. A person's employer has a place of business in this or such other state and the person regularly works at or from such place of business; or

b. If paragraph (d)(4)a. of this section is not applicable, the person is domiciled and spends a substantial part of the person's working time in the service of the person's employer in this or such other state.

(5) Any employee whose duties require the employee to travel regularly in the service of the employee's employer in this and 1 or more other states may, by written agreement with the employee's employer, provide that the employee's employment is principally localized in this or another such state, and, unless such other state refuses jurisdiction, such agreement shall be given effect under this chapter.

(6) "Workers' Compensation Law" includes "Occupational Disease Law."

(Code 1915, § 3193a; 29 Del. Laws, c. 233; 30 Del. Laws, c. 203, § 1; Code 1935, § 6071; 42 Del. Laws, c. 185, § 1; 19 Del. C. 1953, § 2303; 59 Del. Laws, c. 454, § 2; 70 Del. Laws, c. 172, §§ 3-5; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 84, § 3; 71 Del. Laws, c. 422, § 1.)

9. DISTRICT OF COLUMBIA

Under the District of Columbia Workers' Compensation Act, D.C. CODE ANN. §§ 32-1501 to 32-1545 [Formerly 36-301 et seq.] the law provides:

The Workers' Compensation Act is invoked whether or not the injury or death occurred in the District of Columbia, as long as the employee was injured while working for the employer in the District, or outside the District if the employment is principally located in the District. However, one is not covered if the worker receives benefits from another state; is a casual employee at the time of the injury; or is covered by the laws of another state while temporarily working inside the District. In order for the Act to apply and coverage to occur, it is important to establish jurisdiction and the employer-employee relationship.

There is a presumption that, without evidence to the contrary, the claim falls under the Act and sufficient notice of the claim has been given. Furthermore, in order to be covered under the Act, the employer-employee relationship must be established either by the "right of control" test which focuses on such factors as the direct evidence of a right or exercise of control, the method of payment, the furnishing of equipment, and the right of fire, or the "relative nature of the work" test which analyzes whether the work being done by the employee is an integral part of the business of the employer and not for the employee's own independent business or professional service. (Melissa Bedwell, *Summary of District of Columbia Laws*, The Catholic University of America (Mar. 8, 2004), <http://counsel.cua.edu/dclaw/employment/WCA.cfm>.)

10. FLORIDA

Section 440.094 of the Florida Workers' Compensation statute address extraterritorial issues (FLORIDA STAT. tit. 31, § 440.094 (2011)):

440.094 Extraterritorial reciprocity.—

(1) If an employee in this state subject to this chapter temporarily leaves the state incidental to his or her employment and receives an accidental injury arising out of and in the course of employment, the employee is, or the beneficiaries of the employee if the injury results in death are, entitled to the benefits of this chapter as if the employee were injured within this state.

(2) An employee from another state and the employer of the employee in the other state are exempt from this chapter while the employee is temporarily in this state doing work for the employer if:

(a) The employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of the other state to cover the employee's employment while in this state;

(b) The extraterritorial provisions of this chapter are recognized in the other state; and

(c) Employees and employers who are covered in this state are likewise exempted from the application of the workers' compensation insurance or similar laws of the other state.

(3) The benefits under the workers' compensation insurance or similar laws of the other state, or other remedies under similar law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while temporarily working for that employer in this state.

(4) A certificate from the duly authorized officer of the appropriate department of another state certifying that the employer of the other state is insured in that state and has provided extraterritorial coverage insuring employees while working in this state is prima facie evidence that the employer carries that workers' compensation insurance.

(5) Whenever in any appeal or other litigation the construction of the laws of another jurisdiction is required, the courts shall take judicial notice of such construction of the laws of the other jurisdiction.

(6) When an employee has a claim under the workers' compensation law of another state, territory, province, or foreign nation for the same injury or occupational disease as the claim filed in this state, the total amount of compensation paid or awarded under such other workers' compensation law shall be credited against the compensation due under the Florida Workers' Compensation Law.

(7) For purposes of this section, an employee is considered to be temporarily in a state doing work for an employer if the employee is working for his employer in a state other than the state where he or she is primarily employed, for no more than 10 consecutive days, or no more than 25 total days, during a calendar year.

(8) This section applies to any claim made on or after July 1, 2011, regardless of the date of the accident. History.—s. 1, ch. 2011-171.

11. GEORGIA

Under the Georgia Workers' Compensation law section 34-9-242, extraterritorial issues are addressed (GA. CODE ANN. § 34-9-242 (2010)):

§ 34-9-242. Compensation for injury outside of state

In the event an accident occurs while the employee is employed elsewhere than in this state, which accident would entitle him or his dependents to compensation if it had occurred in this state, the employee or his dependents shall be entitled to compensation if the contract of employment was made in this state and if the employer's place of business or the residence of the employee is in this state unless the contract of employment was expressly for service exclusively outside of this state. If an employee shall receive compensation or damages under the laws of any other state, nothing contained in this Code section shall be construed so as to permit a total compensation for the same injury greater than is provided for in this chapter.

HISTORY: Ga. L. 1920, p. 167, § 37; Code 1933, § 114-411.

Important to note also is section 39-4-121(b)(1):

O.C.G.A. § 34-9-121 (2013)

§ 34-9-121. Duty of employer to insure in licensed company or association or to deposit security, indemnity, or bond as self-insurer; application to out-of-state employers; membership in mutual insurance company

(a) Unless otherwise ordered or permitted by the board, every employer subject to the provisions of this chapter relative to the payment of compensation shall secure and maintain full insurance against such employer's liability for payment of compensation under this article, such insurance to be secured from some corporation, association, or organization licensed by law to transact the business of workers'

compensation insurance in this state or from some mutual insurance association formed by a group of employers so licensed; or such employer shall furnish the board with satisfactory proof of such employer's financial ability to pay the compensation directly in the amount and manner and when due, as provided for in this chapter. In the latter case, the board may, in its discretion, require the deposit of acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred; provided, however, that it shall be satisfactory proof of the employer's financial ability to pay the compensation directly in the amount and manner when due, as provided for in this chapter, and the equivalent of acceptable security, indemnity, or bond to secure the payment of compensation liabilities as they are incurred, if the employer shall show the board that such employer is a member of a mutual insurance company duly licensed to do business in this state by the Commissioner of Insurance, as provided by the laws of this state, or of an association or group of employers so licensed and as such is exchanging contracts of insurance with the employers of this and other states through a medium specified and located in their agreements with each other, but this proviso shall in no way restrict or qualify the right of self-insurance as authorized in this Code section. Nothing in this Code section shall be construed to require an employer to place such employer's entire insurance in a single insurance carrier.

(b) (1) Any employer from another state engaged in the construction industry within this state with a workers' compensation insurance policy issued under the laws of such other state so as to cover that employer's employees while in this state shall be in compliance with subsection (a) of this Code section if:

(A) Such other state recognizes the extraterritorial provisions of Code Section 34-9-242; and

(B) Such other state recognizes and gives effect within such state to workers' compensation policies issued to employers of this state.

(2) Nothing in this subsection shall be construed to void any insurance coverage.

(c) The board shall have the authority to promulgate rules and regulations to set forth requirements for third-party administrators and servicing agents, including insurers acting as third-party administrators or servicing agents, with regard to their management or administration of workers' compensation claims. All Title 33 regulations shall remain in the Insurance Department.

(d) Wherever a self-insurer has been required to post bond, should it cease to be a corporation, obtain other coverage, or no longer desire to be a self-insurer, the board shall be allowed to return the bond in either instance, upon the filing of a certificate certifying to the existence of an insurance contract to take over outstanding liability resulting from any presently pending claim or any future unrepresented claims; and the board shall be relieved of any liability arising out of a case where the injuries were incurred, or liability therefor, prior to the returning of the bonds.

HISTORY: Ga. L. 1920, p. 167, § 66; Code 1933, § 114-602; Ga. L. 1962, p. 528, § 1; Ga. L. 1963, p. 141, § 13; Ga. L. 1972, p. 929, § 4; Ga. L. 1989, p. 14, § 34; Ga. L. 1997, p. 1367, § 5; Ga. L. 2009, p. 118, § 3/HB 330.

12. HAWAII

Under Hawaii Workers' Compensation law, section 386-6 covers territorial applicability (HAW. CODE R. §386-6):

§386-6 Territorial applicability. The provisions of this chapter shall be applicable to all work injuries sustained by employees within the territorial boundaries of the State.

If an employee who has been hired in the State suffers work injury, he shall be entitled to compensation under this chapter even though the injury was sustained without the State. The right to compensation shall exclude all other liability of the employer for damages as provided in section 386-5. All contracts of hire of employees made within the State shall be deemed to include an agreement to that effect.

If an employee who has been hired without the State is injured while engaged in his employer's business, and is entitled to compensation for the injury under the law of the state or territory where he was hired, he shall be entitled to enforce against his employer his rights in this State if his rights are such that they can reasonably be determined and dealt with by the director of labor and industrial relations, the appellate board, and the court in this State. [L 1963, c 116, pt of §1; Supp, §97-6; HRS §386-6]

13. IDAHO

Idaho's Title 72, Workers' Compensation, covers extraterritorial issues under Chapter 2, section 72-217 (IDAHO CODE ANN. § 72-217):

72-217. EXTRATERRITORIAL COVERAGE. If an employee, while working outside the territorial limits of this state, suffers an injury or an occupational disease on account of which he, or in the event of death, his dependents, would have been entitled to the benefits provided by this law had such occurred within this state, such employee, or, in the event of his death resulting from such injury or disease, his dependents, shall be entitled to the benefits provided by this law, provided that at the time of the accident causing such injury, or at the time of manifestation of such disease:

- 1) His employment is principally localized in this state; or
- 2) He is working under a contract of hire made in this state in employment not principally localized in any state; or
- 3) He is working under a contract of hire made in this state in employment principally localized in another state, the workmen's compensation law of which is not applicable to his employer; or
- 4) He is working under a contract of hire made in this state for employment outside the United States and Canada.

14. ILLINOIS

The Illinois Workers' Compensation Act extraterritorial provisions are referenced under the definition of "employee" (820 ILL. CODE R. 305 §1(b) (2007)):

(b) The term "employee" as used in this Act means:

1. Every person in the service of the State, including members of the General Assembly, members of the Commerce Commission, members of the Illinois Workers' Compensation Commission, and all persons in the service of the University of Illinois, county, including deputy sheriffs and assistant state's attorneys, city, town, township, incorporated village or school district, body politic, or municipal corporation therein, whether by election, under appointment or contract of hire, express or implied, oral or written, including all members of the Illinois National Guard while on active duty in the service of the State, and all probation personnel of the Juvenile Court appointed pursuant to Article VI of the Juvenile Court Act of 1987, and including any official of the State, any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein except any duly appointed member of a police department in any city whose population exceeds 500,000 according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. A duly appointed member of a fire department in any city, the population of which exceeds 500,000 according to the last federal or State census, is an employee under this Act only with respect to claims brought under paragraph (c) of Section 8.

One employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, is not considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

2. Every person in the service of another under any contract of hire, express or implied, oral or written, including persons whose employment is outside of the State of Illinois where the contract of hire is made within the State of Illinois, persons whose employment results in fatal or non-fatal injuries within the State of Illinois where the contract of hire is made outside of the State of Illinois, and persons whose employment is principally localized within the State of Illinois, regardless of the place of the accident or the place where the contract of hire was made, and including aliens, and minors who, for the purpose of this Act are considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees.

3. Every sole proprietor and every partner of a business may elect to be covered by this Act.

An employee or his dependents under this Act who shall have a cause of action by reason of any injury, disablement or death arising out of and in the course of his employment may elect to pursue his remedy in the State where injured or disabled, or in the State where the contract of hire is made, or in the State where the employment is principally localized.

However, any employer may elect to provide and pay compensation to any employee other than those engaged in the usual course of the trade, business, profession or occupation of the employer by complying with Sections 2 and 4 of this Act. Employees are not included within the provisions of this Act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

The term "employee" does not include persons performing services as real estate broker, broker-salesman, or salesman when such persons are paid by commission only.

15. INDIANA

Under Indiana's Workers' Compensation law, Chapter 2, entitled "Application, Rights, and Remedies" (IND. CODE § 22-3-2):

IC 22-3-2-19 Interstate or foreign commerce; exemptions

Sec. 19. IC 22-3-2 through IC 22-3-6 shall not apply to employees and employers engaged in interstate or foreign commerce wherein the laws of the United States provide for compensation or for liability for injury or death by accident to such employees.

(Formerly: Acts 1929, c.172, s.19; Acts 1963, c.387, s.4.) As amended by P.L.144-1986, SEC.28. IC 22-3-2-20

Place of accident

Sec. 20. Every employer and employee under IC 22-3-2 through IC 22-3-6 shall be bound by the provisions of IC 22-3-2 through IC 22-3-6 whether injury by accident or death resulting from such injury occurs within the state or in some other state or in a foreign country.

(Formerly: Acts 1929, c.172, s.20.) As amended by P.L.144-1986, SEC.29.

16. IOWA

Iowa's Code provides for extraterritorial application with the following provisions (IOWA CODE § 85.71 (2013)):

85.71 INJURY OUTSIDE OF STATE.

1. If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of death, the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of death resulting from such injury, the employee's dependents, shall be entitled to the benefits provided by this chapter, if at the time of such injury any of the following is applicable:

a. The employer has a place of business in this state and the employee regularly works at or from that place of business, or the employer has a place of business in this state and the employee is domiciled in this state.

b. The employee is working under a contract of hire made in this state and the employee regularly works in this state.

c. The employee is working under a contract of hire made in this state and sustains an injury for which no remedy is available under the workers' compensation laws of another state.

d. The employee is working under a contract of hire made in this state for employment outside the United States.

e. The employer has a place of business in Iowa, and the employee is working under a contract of hire which provides that the employee's workers' compensation claims be governed by Iowa law.

2. This section shall be construed to confer personal jurisdiction over an employee or employer to whom this section is applicable.

85.72 CLAIMS FOR BENEFITS MADE OUTSIDE OF STATE --

RESTRICTIONS -- CREDIT.

1. An employee, or an employee's dependents, shall not be entitled to benefits under this chapter if the employee or the employee's dependents have initiated a judicial proceeding or a contested case or other similar proceeding for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, and the employee or the employee's dependents receive benefits following final resolution of the proceeding pursuant to a settlement, judgment, or award.

2. If an employee, or an employee's dependents, initiate a judicial proceeding or a contested case or other similar proceeding for benefits pursuant to the laws of another state or country concerning workers' compensation, any proceeding initiated by an employee, or an employee's dependents, for workers' compensation benefits under this chapter for the same injury, disability, or death shall be stayed, without prejudice, pending resolution of the out-of-state claim for benefits.

3. If benefits are paid under this chapter and were payable, at any time, for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, the employer shall have a credit toward the benefits payable under this chapter for any benefits paid in another state or country. Benefits paid in another state or country constitute weekly compensation benefits for the purposes of sections 85.26 and 86.13.

17. KANSAS

The Kansas Workers' Compensation law states (KAN. STAT. ANN. § 44-506 (2009)):

44-506. Application of act to certain businesses or employments, lands and premises.

The workmen's compensation act shall not be construed to apply to business or employment which, according to law, is so engaged in interstate commerce as to be not subject to the legislative power of the state, nor to persons injured while they are so engaged: Provided, That the workmen's compensation act shall apply also to injuries sustained outside the state where: (1) The principal place of employment is within the state; or (2) the contract of employment was made within the state, unless such contract otherwise specifically provides: Provided, however, That the workmen's compensation act

shall apply to all lands and premises owned or held by the United States of America by deed or act of cession, by purchase or otherwise, which is within the exterior boundaries of the state of Kansas and to all projects, buildings, constructions, improvements and property belonging to the United States of America within said exterior boundaries as authorized by 40 U.S.C. 290, enacted June 25, 1936.

18. KENTUCKY

Kentucky's Workers' Compensation Law provides (KY. REV. STAT. ANN. § 342.670 (2010)):

342.670 Extraterritorial coverage.

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of the employee's death, his or her dependents, would have been entitled to the benefits provided by this chapter had that injury occurred within this state, that employee, or in the event of the employee's death resulting from that injury, his or her dependents, shall be entitled to the benefits provided by this chapter, if at the time of the injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state in employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or (d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his or her dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, if a claim under this chapter is filed within two (2) years after that injury or death. If compensation is paid or awarded under this chapter:

(a) The medical and related benefits furnished or paid for by the employer under another jurisdiction's workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;

(b) The total amount of all income benefits paid or awarded the employee under another jurisdiction's workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; and

(c) The total amount of death benefits paid or awarded under another jurisdiction's workers' compensation law shall be credited against the total amount of death benefits due under this chapter.

(3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the commissioner a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of compensation under the workers' compensation law of the other state and that with respect to the injury the employee is entitled to the benefits provided under that law, and that the benefits to which the employee or his or her dependents is entitled are at least as great as those to which he or she would be entitled if the injury occurred and was processed under Kentucky law, under Kentucky coverage. In this event:

(a) The filing of the certificate shall constitute an appointment by the employer or his carrier of the commissioner as his or her agent for acceptance of the service of process in any proceeding brought by the employee or his or her dependents to enforce his, her, or their rights under this chapter on account of the injury;

(b) The commissioner shall send to the employer or carrier, by certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the commissioner by the employee or his or her dependents in any proceeding brought to enforce his, her, or their rights under this chapter;

(c) 1. If the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer shall, upon submission of evidence satisfactory to the commissioner, of its ability to meet its liability to the employee under this chapter, be deemed to be a qualified self-insurer under this chapter;

2. If the employer's liability under the workers' compensation law of the other state is insured, the employer's carrier, as to the employee or his or her dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;

(d) If the total amount for which the employer's insurance is liable under (c) above is less than the total of the compensation benefits to which the employee is entitled under this chapter, the commissioner may, if he or she deems it necessary, require the employer to file security, satisfactory to the commissioner, to secure the payment of benefits due the employee or his or her dependents under this chapter; and

(e) Upon compliance with the preceding requirements of this subsection (3), the employer, as to the employee only, shall be deemed to have secured the payment of compensation under this chapter.

(4) Any professional athlete, coach, or trainer who has been hired outside this Commonwealth by an employer domiciled in a foreign state, including professional baseball, basketball, football, and ice-hockey clubs, is exempted from the provisions of this chapter while that employee is temporarily

within this Commonwealth doing work for the employer, if the foreign employer has secured workers' compensation insurance coverage under the workers' compensation law of the foreign state, so as to cover the employee's employment while in this Commonwealth. The benefits under the workers' compensation law of the foreign state shall be the exclusive remedy against that employer and any affiliated club for any injury, whether resulting in death or not, received by any employee while working for that employer in this Commonwealth.

(5) As used in this section:

(a) "United States" includes only the states of the United States and the District of Columbia;

(b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;

(c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;

(d) A person's employment is principally localized in this or another state

when:

1. His or her employer has a place of business in this or the other state and he or she regularly works at or from that place of business, or

2. If subparagraph 1. foregoing is not applicable, he or she is domiciled and spends a substantial part of his or her working time in the service of his or her employer in this or the other state;

(e) An employee whose duties require him or her to travel regularly in the service of his or her employer in this and one (1) or more other states may, by written agreement with his or her employer, provide that his or her employment is principally localized in this or another state, and, unless the other state refuses jurisdiction, the agreement shall be given effect under this chapter;

(f) "Workers' compensation law" includes "occupational disease law."

19. LOUISIANA

RS 23:1035.1 of Louisiana's Workers' Compensation provides (LA. REV. STAT. ANN. § 1035.1):

§1035.1. Extraterritorial coverage

(1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this Chapter had such injury occurred within this state, such employee, or in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this Chapter, provided that at the time of such injury

(a) his employment is principally localized in this state, or

(b) he is working under a contract of hire made in this state.

(2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of this Chapter shall not be a bar to a claim for benefits under this act; provided that claim under this act is filed within the time limits set forth in R.S. 23:1209. If compensation is paid or awarded under this act:

(a) The medical and related benefits furnished or paid for by the employer under such other worker's compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this act had claim been made solely under this act;

(b) The total amount of all income benefits paid or awarded the employee under such other worker's compensation law shall be credited against the total amount of income benefits which would have been due the employee under this act, had the claim been made solely under this act;

(c) The total amount of death benefits paid or awarded under such other worker's compensation law shall be credited against the total amount of death benefits due under this act.

(3) "Workers' compensation law" includes "occupational disease law".

(4) Notwithstanding the above, an employee may elect as his exclusive state workers' compensation remedy the provisions of Louisiana's workers' compensation law provided all the following items occur:

(a) This election is clearly stated in a written employment contract signed by the employee prior to the occurrence of an accident or occupational disease as defined in this Chapter.

(b) Louisiana's workers' compensation law has jurisdiction over the accident or occupational disease under its conflict of laws or extraterritorial law.

(c) The employee was domiciled in the state of Louisiana at the time of the accident or the injurious exposure to conditions causing an occupational disease.

20. MAINE

Maine's Workers' Compensation Act provides (ME. REV. STAT. tit. 39-A § 113 (1992)):

§113. Exemption for nonresident employees; reciprocity

1. Exemption. An employee who is employed in another state and that employee's employer are exempt from this Act with respect to that employee while the employee is temporarily in this State doing work for that employer if:

A. The employee is not a resident of this State and was not hired in this State; [1995, c. 70, §1 (NEW).]

B. The employer does not have a permanent place of business in the State; [1995, c. 70, §1 (NEW).]

C. The employee's presence in this State for purposes of conducting employment activities does not exceed any of the following periods:

(1) Five consecutive days;

(2) Ten days in any 30-day period; or

(3) Thirty days in any 360-day period; [1995, c. 70, §1 (NEW).]

D. The employer and employee are covered by the provisions of the workers' compensation laws or similar laws of the other state and that law applies to them while they are working in this State; [1995, c. 70, §1 (NEW).]

E. The employer has furnished workers' compensation insurance coverage under the workers' compensation laws or similar laws of the other state so as to cover the employee's employment while in this State; [1995, c. 70, §1 (NEW).]

F. The extraterritorial provisions of this Act covering employees in this State temporarily working in the other state are recognized in the other state; and [1995, c. 70, §1 (NEW).]

G. Employers and employees covered in this State are exempt from the application of the workers' compensation laws or similar laws of the other state under legislation comparable to this section. [1995, c. 70, §1 (NEW).]

[1995, c. 70, §1 (NEW) .]

2. Other state's laws prevail. If the exemption provided in subsection 1 applies, the workers' compensation laws or similar laws of the other state are the exclusive remedy against the employer in that state for any injury, whether resulting in death or not, received by an employee while working for that employer in this State.

[1995, c. 70, §1 (NEW) .]

3. Certificate of compliance. A certificate from a duly authorized official of the workers' compensation board or similar department or agency of the other state certifying that an employer is insured in that other state and has provided extraterritorial coverage insuring the employer's employees while working within this State is prima facie evidence that the employer carries such compensation insurance.

[1995, c. 70, §1 (NEW) .]

4. Reciprocal agreements. The board may enter into reciprocal agreements with workers' compensation agencies of other states adopting legislation similar to this section to ensure efficient administration of the Act.

21. MARYLAND

Maryland Labor and Employment Section 9-203 provides the following (MD. CODE ANN., LAB. & EMPL. § 9-203 (2013)):

Article - Labor and Employment

§ 9-203.

(a) Except as otherwise expressly provided, an individual is a covered employee while working for the employer of the individual:

(1) in this State;

(2) outside of this State on a casual, incidental, or occasional basis if the employer regularly employs the individual within this State; or

(3) wholly outside the United States under a contract of employment made in this State for the work to be done wholly outside of the United States.

(b) (1) An individual is not a covered employee while working in this State for an employer only intermittently or temporarily if:

(i) the individual and employer make a contract of hire in another state;

(ii) neither the individual nor the employer is a resident of this State;

(iii) the employer has provided workers' compensation insurance coverage under a workers' compensation or similar law of another state to cover the individual while working in this State;

(iv) the other state recognizes the extraterritorial provisions of this title; and

(v) the other state similarly exempts covered employees and their employers from its law.

(2) If an individual is exempted from coverage under this subsection and injured in this State while working for the employer of the individual, the sole remedy of the individual is the workers' compensation or similar law of the state on which the exemption is based.

(3) A certificate from an authorized officer of the workers' compensation commission or similar unit of another state certifying that the employer is insured in that state and has provided extraterritorial insurance coverage for the employees of the employer while working within this State is prima facie evidence that the employer carries that compensation insurance.

(c) Except as otherwise expressly provided, an individual who is employed wholly outside of this State is not a covered employee.

22. MASSACHUSETTS

Section 26 of Massachusetts' Workers' Compensation law provides for "Injuries arising out of and in course of employment" (MASS. GEN. LAWS ch. 152 § 26 (2012)):

Section 26. If an employee who has not given notice of his claim of common law rights of action under section twenty-four, or who has given such notice and has waived the same, receives a personal injury arising out of and in the course of his employment, or arising out of an ordinary risk of the street while actually engaged, with his employer's authorization, in the business affairs or undertakings of his employer, and whether within or without the commonwealth, he shall be paid compensation by the insurer or self-insurer, as hereinafter provided; provided, that as to an injury occurring without the commonwealth he has not given notice of his claim of rights of action under the laws of the jurisdiction wherein such injury occurs or has given such notice and has waived it. For the purposes of this section any person, while operating or using a motor or other vehicle, whether or not belonging to his employer, with his employer's general authorization or approval, in the performance of work in connection with the business affairs or undertakings of his employer, and whether within or without the commonwealth, and any person who, while engaged in the usual course of his trade, business, profession or occupation, is ordered by an employer, or by a person exercising superintendence on behalf of such employer, to perform work which is not in the usual course of such work, trade, business, profession or occupation, and while so performing such work, receives a personal injury, shall be conclusively presumed to be an employee, and if an employee while acting in the course of his employment receives injury resulting from frost bite, heat exhaustion or sunstroke, without having voluntarily assumed increased peril not contemplated by his contract of employment, or is injured by reason of the physical activities of fellow employees in which he does not participate, whether or not such activities are associated with the employment, such injury shall be conclusively presumed to have arisen out of the employment.

If an employee is injured by reason of such physical activities of fellow employees and the department finds that such activities are traceable solely and directly to a physical or mental condition resulting from the service of any of such fellow employees in the armed forces of the United States, the entire amount of compensation that may be found due shall be paid by the insurer, self-insurer or self-insurance group; provided, however, that upon an order or pursuant to an approved agreement of the department, the insurer, self-insurer or self-insurance group shall be reimbursed by the state treasurer from the trust fund established by section sixty-five for all amounts of compensation paid under this section.

23. MICHIGAN

Michigan's injured workers and their employers are governed by the Workers' Disability Compensation Act which provides (MICH. COMP. LAWS § 418.845 (2009)):

418.845 Out-of-state injuries; jurisdiction; benefits.

Sec. 845.

The worker's compensation agency shall have jurisdiction over all controversies arising out of injuries suffered outside this state if the injured employee is employed by an employer subject to this act and if either the employee is a resident of this state at the time of injury or the contract of hire was made in

this state. The employee or his or her dependents shall be entitled to the compensation and other benefits provided by this act.

418.846 Worker's compensation benefits received under law of another state for same personal injury; credit.

Sec. 846.

If an employee or the employee's dependents receive worker's compensation benefits from an employer, a carrier, a principal, or a subcontractor under the law of another state for the same personal injury for which benefits are payable under this act, the amount recovered under the law of the other state, whether paid or to be paid in future installments, shall be credited against the benefits payable under this act.

24. MINNESOTA

Minnesota's Workers' Compensation Statute provides (MINN. STAT. § 176.041, subd 2-6; Stat. 176.295 (2012)):

Subd. 2. Extraterritorial application. If an employee who regularly performs the primary duties of employment within this state receives an injury while outside of this state in the employ of the same employer, the provisions of this chapter shall apply to such injury. If a resident of this state is transferred outside the territorial limits of the United States as an employee of a Minnesota employer, the resident shall be presumed to be temporarily employed outside of this state while so employed.

Subd. 3. Temporary out-of-state employment. If an employee hired in this state by a Minnesota employer receives an injury while temporarily employed outside of this state, such injury shall be subject to the provisions of this chapter.

Subd. 4. Out-of-state employment. If an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forgo any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.

Subd. 5. [Repealed, 1974 c 486 s 6]

Subd. 5a. Out-of-state injuries. Except as specifically provided by subdivisions 2 and 3, injuries occurring outside of this state are not subject to this chapter.

Subd. 5b. North Dakota employers. Notwithstanding the provisions of subdivision 4, workers' compensation benefits for an employee hired in North Dakota by a North Dakota employer, arising out of that employee's temporary work in Minnesota, shall not be payable under this chapter. North Dakota

workers' compensation law provides the exclusive remedy available to the injured worker. For purposes of this subdivision, temporary work means work in Minnesota for a period of time not to exceed 15 consecutive calendar days or a maximum of 240 total hours worked by that employee in a calendar year.

Subd. 6. Commissioner of labor and industry; additional powers. Whenever an employee is covered by subdivision 2, 3 or 4, the commissioner may enter into agreements with the appropriate agencies of other states for the purpose of resolving conflicts of jurisdiction or disputes concerning workers' compensation coverage. An agreement entered into pursuant to this subdivision may be appealed in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the Workers' Compensation Court of Appeals or the district court.

176.295 NONRESIDENT EMPLOYERS; FOREIGN CORPORATION.

Subdivision 1. Affidavit of inability to obtain service. Where an employee or an employee's dependent has filed a petition for compensation with the commissioner of the Department of Labor and Industry, and is unable to make service of the petition and other notices on the employer because the latter is a nonresident or a foreign corporation, the petitioner may file an affidavit with the commissioner of the Department of Labor and Industry stating that the petitioner is so unable to make service.

Subd. 2. Action in district court. When the petitioner has filed the affidavit with the commissioner of the Department of Labor and Industry, the petitioner may bring an action against the employer in the district court located in the county in which the employee resided at the time of the injury or death. The action shall be brought and conducted in the same manner as are other civil actions in district court. The complaint shall state that a petition for compensation has been filed with the commissioner of the Department of Labor and Industry, and shall be accompanied by a verified copy of the affidavit. The complaint shall also state the facts upon which the right to compensation or other relief is based.

Subd. 3. Attachment, garnishment; service by publication. The remedies of attachment and garnishment are available to the petitioner in the district court action. Service of summons may be made by publication.

Subd. 4. General appearances; security, bond. Where the employer makes a general appearance in the district court action and files a bond or security approved by the commissioner of the Department of Labor and Industry, or where an insurer appears generally in the action and assumes liability for any award which may be rendered against the employer, the district court shall dismiss the action.

25. MISSISSIPPI

Mississippi Workers' Compensation law provides (MISS. CODE ANN. § 71-3-109 (1972)):

SEC. 71-3-109. Extra-territorial application.

(1) If an employee who has been hired or is regularly employed in this state receives personal injury by accident arising out of and in the course of his employment while temporarily employed outside of this state, he or his dependents in case of his death shall be entitled to compensation according to the law of this state. This provision shall apply only to those injuries received by the employee within six months

after leaving this state unless, prior to the expiration of such six months' period, the employer has filed with the commission of Mississippi notice that he has elected to extend such coverage a greater period of time.

(2) The provisions of this section shall not apply to an employee whose departure from this state is caused by a permanent assignment or transfer.

(3) Any employee who has been hired or is regularly employed outside of this state and his employer shall be exempted from the provisions of this chapter while such employee is temporarily within this state doing work for his employer if such employer has furnished workmen's compensation insurance coverage under the workmen's compensation or similar laws for a state other than this state so as to cover such employee's employment while in this state, provided the extra-territorial provisions of this chapter are recognized in such other state and provided employers and employees who are covered in this state are likewise exempted from the application of the workmen's compensation or similar laws of such other state. The benefits under the workmen's compensation or similar laws of such other state shall be the exclusive remedy against such employer for any injury, whether resulting in death or not, received by such employee while working for such employer in this state.

26. MISSOURI

Missouri's Workers' Compensation law provides (MO. REV. STAT. § 287.110.1 (2013)):

Scope of chapter as to injuries and diseases covered.

287.110. 1. This chapter shall apply to all cases within its provisions except those exclusively covered by any federal law.

2. This chapter shall apply to all injuries received and occupational diseases contracted in this state, regardless of where the contract of employment was made, and also to all injuries received and occupational diseases contracted outside of this state under contract of employment made in this state, unless the contract of employment in any case shall otherwise provide, and also to all injuries received and occupational diseases contracted outside of this state where the employee's employment was principally localized in this state within thirteen calendar weeks of the injury or diagnosis of the occupational disease.

27. MONTANA

Montana's Workers' Compensation provides (MONT. CODE ANN. § 39-71-402 (2013)):

39-71-402. Extraterritorial applicability and reciprocity of coverage -- agreements with other states -- rulemaking. (1) (a) In the absence of an agreement under subsection (2), if a worker employed in this state who is subject to the provisions of this chapter temporarily leaves this state incidental to that employment and receives an injury arising out of and in the course of employment, the provisions of this chapter apply to the worker as though the worker were injured within this state.

(b) Except as provided in subsection (1)(c) and in the absence of an agreement under subsection (2), if a worker from another state and the worker's employer from another state are temporarily engaged in work within this state, this chapter does not apply to them:

(i) if the employer and employee are bound by the provisions of the workers' compensation law or similar law of the other state that applies to them while they are temporarily engaged in work in the state of Montana; and

(ii) if the Workers' Compensation Act of this state is recognized and given effect as the exclusive remedy for workers employed in this state who are injured while temporarily engaged in work in the other state.

(c) Unless specifically addressed in an agreement as provided in subsection (2)(d), employers from another state that are engaged in the construction industry, as defined in 39-71-116, and that employ workers from another state shall obtain coverage for those workers under the provisions of this chapter.

(2) (a) The department, with the approval of the governor, may enter into a reciprocal agreement with an authorized officer of the workers' compensation department or similar agency of another state to allow an employer from one state and its employees from that state to work in the other state without obtaining workers' compensation coverage from both states.

(b) The reciprocal agreement must contain, at a minimum, the following provisions:

(i) the employer and employee must be bound by the provisions of the workers' compensation law or similar law of the other state that applies to them while they are engaged in work in the state of Montana; and

(ii) the Workers' Compensation Act of this state must be recognized and given effect as the exclusive remedy for workers employed in this state who are injured while engaged in work in the other state.

(c) The agreement may contain other provisions, including but not limited to provisions regarding how long the work may continue and whether limitations or exclusions apply to the types of work covered by the agreement.

(d) Unless the agreement specifically provides that the agreement is applicable to employers engaged in the construction industry, as defined in 39-71-116, an employer from another state engaged in the construction industry in Montana does not qualify for extraterritorial coverage that might otherwise be provided by this section.

(e) The agreement may be canceled, renewed, or modified from time to time as provided in the agreement.

(f) After an agreement has been entered into pursuant to this subsection (2), a certificate from an authorized officer of the workers' compensation department or similar agency of another state certifying that an employer of the other state is bound by the Workers' Compensation Act of the state

and that its act will be applied to employees of the employer while engaged in work in the state of Montana is prima facie evidence that:

(i) the workers' compensation law of the certifying state applies to the employer and its employees while engaged in work in Montana; and

(ii) the employer is properly insured for workers' compensation purposes in the certifying state as of the date of the certification.

(3) The department may adopt rules to implement this section.

28. NEBRASKA

Nebraska Revised Statute 48-115 provides (NEB. REV. STAT. § 48-115):

Chapter 48 » 48-115

48-115. Employee and worker, defined; inclusions; exclusions; waiver; election of coverage.

The terms employee and worker are used interchangeably and have the same meaning throughout the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes. For purposes of the act, employee or worker shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written;

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors. Minors for the purpose of making election of remedies under the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) through (11) of this section, the terms employee and worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by such act, the employee or, in the event of his or her death, his or her dependents shall be entitled to the benefits provided under such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state;

29. NEVADA

Under Chapter 616B entitled “Industrial Insurance: Insurers; Liability for Provision of Coverage”(NEV. REV. STAT. § 616B):

NRS (Nevada Revised Statutes) 616B.600 Exemption of employer and employee temporarily within State; exception; effect of employee working in another state where coverage required.

1. Except as limited in subsection 3, any employee who has been hired outside of this State and his or her employer are exempted from the provisions of chapters 616A to 616D, inclusive, and chapter 617 of NRS while the employee is temporarily within this State doing work for the employer if the employer has furnished industrial insurance pursuant to the Nevada Industrial Insurance Act or similar laws of a state other than Nevada so as to cover the employee’s employment while in this State if:

(a) The extraterritorial provisions of chapters 616A to 616D, inclusive, and chapter 617 of NRS are recognized in the other state; and

(b) Employers and employees who are covered in this State are likewise exempted from the application of the Nevada Industrial Insurance Act or similar laws of the other state.

The benefits provided in the Nevada Industrial Insurance Act or similar laws of the other state are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while working for the employer in this State.

2. A certificate from the Administrator or similar officer of another state certifying that the employer of the other state is insured therein and has provided extraterritorial coverage insuring employees of the employer while working within this State is prima facie evidence that the employer carried the industrial insurance.

3. The exemption provided for in this section does not apply to the employees of a contractor, as defined in NRS 624.020, operating within the scope of the license of the contractor.

4. An employer is not required to maintain coverage for industrial insurance in this State for an employee who has been hired or is regularly employed in this State, but who is performing work exclusively in another state, if the other state requires the employer to provide coverage for the employee in the other state. If the employee receives personal injury by accident arising out of and in the course of his or her employment, any claim for compensation must be filed in the state in which the accident occurred, and such compensation is the exclusive remedy of the employee or the dependents of the employee. This subsection does not prevent an employer from maintaining coverage for the employee pursuant to the provisions of chapters 616A to 616D, inclusive, and chapter 617 of NRS.

30. NEW HAMPSHIRE

TITLE XXIII entitled “Labor”, Chapter 281-A, “Workers’ Compensation” states (N.H. REV. STAT. ANN. § 281-A:5-f (2013)):

Section 281-A:5-f

281-A:5-f Application of Chapter to Nonresident Employees and Employers. – Notwithstanding any provision of law to the contrary, the provisions of this chapter shall apply to nonresident employees and employers doing business in New Hampshire.

281-A:8 Employees Presumed to Have Accepted. –

I. An employee of an employer subject to this chapter shall be conclusively presumed to have accepted the provisions of this chapter and, on behalf of the employee or the employee's personal or legal representatives, to have waived all rights of action whether at common law or by statute or provided under the laws of any other state or otherwise:

(a) Against the employer or the employer's insurance carrier or an association or group providing self-insurance to a number of employers; and

(b) Except for intentional torts, against any officer, director, agent, servant or employee acting on behalf of the employer or the employer's insurance carrier or an association or group providing self-insurance to a number of employers.

II. The spouse of an employee entitled to benefits under this chapter, or any other person who might otherwise be entitled to recover damages on account of the employee's personal injury or death, shall have no direct action, either at common law or by statute or otherwise, to recover for such damages against any person identified in subparagraph I(a) or (b).

III. Nothing in this chapter shall derogate from any rights a former employee may have under common law or other statute to recover damages for wrongful termination of, or constructive discharge from, employment. However, if a former employee makes a claim under this chapter for compensation for injuries allegedly caused by such wrongful termination or constructive discharge, the employee shall be deemed to have elected the remedies of this chapter, and to have waived rights to recover damages for such wrongful termination or constructive discharge under common law or other statute. Similarly, if a former employee brings an action under common law or other statute to recover damages for such wrongful termination or constructive discharge, the employee shall be deemed to have waived claims under this chapter for compensation allegedly caused by such termination or discharge.

281-A:12 Injuries Outside the State. –

I. If an employee is injured while employed elsewhere than in this state, and is injured under circumstances that would have entitled the employee or a dependent to workers' compensation under this chapter had such employee been injured in this state, then such employee or dependents of such employee shall be entitled to workers' compensation as provided in this chapter:

(a) If the employee or the employee's dependents release the employer from all liability under any other law;

(b) If the employer is engaged in business in this state;

(c) If the contract of employment was made in this state; and

(d) If the contract of employment was not expressly for service exclusively outside of this state.

II. However, recovery of damages in an action at law or recovery of workers' compensation under the law of any other state shall bar recovery of workers' compensation under the law of this state.

31. NEW JERSEY

New Jersey law remains silent on the following topics: New Jersey workers working in other states; other states workers working in New Jersey; extraterritorial; reciprocity and non-compliance. Extraterritorial and reciprocity issues are not addressed by New Jersey statute. However, New Jersey case law offers some guidance. The case of *Cramer v. State Concrete Corp.* (39 N.J. 507) 1963, held that a workers' compensation award from another state would not deprive an injured worker of his right to benefits under New Jersey law where the contract of employment was made in New Jersey and the injury took place in New York. The court stated that as a matter of fairness the employee should receive the highest available amount of compensation to which he is entitled, so long, as credit is given for payments received.

The New Jersey Appellate Division examined the various factors to consider when determining whether an employer must provide workers' compensation insurance to its employee, even if the employee works overseas at the time of the accident. (See *International Schools Services, Inc. v. New Jersey Department of Labor and Workforce Development*, 408 N.J. Super. 198, 974 A2d 433 (App. Div. 2009)). New Jersey courts have applied the factors in the treatise "Larson's Workers' Compensation Law" (2000 rev. ed.) to determine whether an employee has sufficient contacts with New Jersey to warrant application of the New Jersey Workers' Compensation Act. (Angela M. Scafuri, *Workers' Compensation Insurance for Employees Working Overseas*, 198 New Jersey Law Journal No. 5, Index 437 (Nov. 2, 2009)). The Larson analysis identifies six factors in determining the applicability of the Act: (1) place where the injury occurred; (2) place of the making of the contract; (3) place where the employment relation exists or is carried out; (4) place where the industry is localized; (5) place where the employee resides; or (6) place whose statute the parties expressly adopt by contract. Another New Jersey case, *Connolly v. Port Auth. of New York and New Jersey*, 317 N.J. Super. 315, 722 A.2d 110 (App.Div.1998), set forth several factors which traditionally trigger jurisdiction in the New Jersey courts of workers' compensation: (i) the injury occurred in New Jersey; (ii) New Jersey is the place of the employment contract or hiring; (iii) the employee lives in New Jersey and there were at least some employment contacts in New Jersey; and (iv) "where there exists neither location of the injury, location of the employment contract or hiring, or residency of the employee in New Jersey, jurisdiction may still arise where the 'composite employment incidents present a[n] ... identification of the employment relationship with this State.'" The Connolly/Larson analysis is fact specific and applied individually to the employee.

32. NEW MEXICO

New Mexico Workers' Compensation provides (N.M. STAT. ANN. § 52-1-64 (2006)):

52-1-64 . Extra-territorial coverage.

If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee or, in the event of the employee's death, the employee's dependents would have been entitled to the benefits provided by the Workers' Compensation Act, had such injury occurred within this state, the employee or, in the event of the employee's death resulting from the injury, the employee's dependents shall be entitled to the benefits provided by that act; provided that at the time of the injury:

- A. the employee's employment is principally localized in this state;
- B. the employee is working under a contract of hire made in this state in employment not principally localized in any state;
- C. the employee is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to the employee's employer;
- D. the employee is working under a contract of hire made in this state for employment outside the United States and Canada; or
- E. the employee is an unpaid health professional deployed outside this state by the department of health in response to a request for emergency health personnel made pursuant to the Emergency Management Assistance Compact [12-10-14NMSA 1978].

52-1-67. Locale of employment; definitions.

- A. A person's employment is principally localized in this or another state when:
 - (1) his employer has a place of business in this or such other state and he regularly works at or from such place of business; or
 - (2) if Paragraph (1) of this subsection is not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.
- B. An employee whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provided [provide] that his employment is principally localized in this or another such state, and, unless such other state refuses jurisdiction, such agreement shall be given effect under the Workers' Compensation Act [Chapter 52, Article 1NMSA 1978].
- C. As used in Sections 52-1-64 through 52-1-67NMSA 1978:
 - (1) "United States" includes only the states of the United States and the District of Columbia;

(2) "state" includes any state of the United States, the District of Columbia or any province of Canada; and

(3) "carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law.

52-1-65 . Credit for benefits furnished or paid under laws of other jurisdictions.

The payment or award of benefits under the workers' compensation law of another state, territory, province or foreign nation to an employee or his dependents otherwise entitled on account of such injury or death to the benefits of the Workers' Compensation Act [Chapter 52, Article 1NMSA 1978] shall not be a bar to a claim for benefits under that act; provided that claim under that act is filed within one year after such injury or death. If compensation is paid or awarded under that act:

A. the medical and related benefits furnished or paid for by the employer under such other workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under the Workers' Compensation Act had claim been made solely under that act;

B. the total amount of all income benefits paid or awarded the employee under such other workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under the Workers' Compensation Act had claim been made solely under that act; and

C. the total amount of death benefits paid or awarded under such other workers' compensation law shall be credited against the total amount of death benefits due under the Workers' Compensation Act.

52-1-66 . Nonresident employers employing workers in state; requirement for insurance; enforcement.

A. Every employer not domiciled in the state who employs workers engaged in activities required to be licensed under the Construction Industries Licensing Act [Chapter 6, Article 13NMSA 1978] and every other employer not domiciled in the state who employs three or more workers within the state, whether that employment is permanent, temporary or transitory and whether the workers are residents or nonresidents of the state, shall comply with the provisions of Section 52-1-4 NMSA 1978 and, unless self-insured, shall obtain a workers' compensation insurance policy, or an endorsement to an existing policy, issued in accordance with the provisions of Section 59A-17-10.1 NMSA 1978. An employer who does not comply with the foregoing requirement shall be enjoined from doing business in the state pursuant to Section 52-1-62NMSA 1978 and shall be barred from recovery by legal action for labor or materials furnished during any period of time in which he was not in compliance with the requirements of this section, and, if the noncomplying employment is in an activity for which the employer is licensed under the provisions of the Construction Industries Licensing Act, the employer's license is subject to revocation or suspension for the violation.

B. The construction industries division of the regulation and licensing department shall promulgate rules and regulations to insure compliance with Subsection A of this section.

52-1-68 . Reciprocal recognition of extra-territorial coverage with other jurisdictions.

For the purpose of effecting mutually satisfactory reciprocal arrangements with other states respecting extra-territorial jurisdictions, the director of workers' compensation division is empowered to promulgate special and general regulations not inconsistent with the provisions of the Workers' Compensation Act [Chapter 52, Article 1NMSA 1978] and, with the approval of the governor, to enter into reciprocal agreements with appropriate boards, commissions, officers or agencies of other states having jurisdiction over workers' compensation claims.

33. NEW YORK

In general a New York employee who is working outside the state of New York while under the control of a New York employer will be eligible for benefits under New York statute with no time limit. However, the worker could choose to forgo New York benefits and file for benefits in the state that they were working in. (Linda Repp, *Extraterritorial Reciprocity Information for All 50 States*, <http://www.cbs.state.or.us/wcd/compliance/ecu/etsummary.html>.)

Under the New York Labor Code (N.Y. LAB. LAW § 113):

§ 113 Interstate commerce

The provisions of this chapter shall apply to employers and employees engaged in intrastate, and also interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, provided that awards according to the provisions of this chapter may be made by the board in respect of injuries subject to the admiralty or other federal laws in case the claimant, the employer and the insurance carrier waive their admiralty or interstate commerce rights and remedies, and the state insurance fund or other insurance carrier may assume liability for the payment of such awards under this chapter.

New York Workers Compensation Board Out-Of-State Employers Policy; Date: November 22, 2010

As a matter of policy, the Board has determined that, although any employer with employees within New York for any amount of time may be subject to the Workers' Compensation Law (WCL) of this State and required to provide full statutory coverage, the Board will only exercise its enforcement power in regard to the acquisition of such full statutory coverage for New York State against an out-of-state employer that meets any of the following criteria:

- The employer (as defined in the WCL) is required to register with the NYS Department of Labor and pay Unemployment Insurance for any period in question.

- The employer has a permanent physical location in New York or has employees whose primary work location is here.
- The employer is operating in New York under a permit, contract, or license granted by the State of New York, its counties or any municipality as defined under §57 of the Workers' Compensation Law.
- The employer is working as a contractor/general contractor/subcontractor on a construction project in New York.
- In the previous year, the employer had employees physically in New York for at least 40 hours of every week for a period of longer than 2 consecutive weeks or had employees present in New York for 25 or more individual days (e.g.- 5 employees working for 5 days in New York equals 25 individual employee days). Employees traveling through the State not stopping for deliveries, pick-ups, or other work are not deemed to have worked a day here. An employer that has reason to know that it will meet these criteria in the current year, even if it has not done so in the prior year, must obtain the required coverage.

Out-of-state employers that are sending employees into NYS that are only attending infrequent (not more than one per month) meetings, seminars, conferences or conventions in New York State will not be required to provide full statutory coverage for such employees.

Upon inquiry by the Board as to an employer's status, it is the employer's responsibility to attest to the fact that they meet none of these conditions in order to avoid enforcement actions. In the event penalties are issued by the Board, it is the employer's responsibility to provide documentation to the Board that none of the above conditions were met in order to have a penalty rescinded.

In extraordinary circumstances, and in the sole discretion of the Board, the above conditions may be exceeded and no enforcement action commenced or penalties may be imposed against employers that meet these conditions. (*New York Workers Compensation Board Out-Of-State Employers Policy*, (Nov. 22, 2010), <http://www.wcb.ny.gov/content/main/onthejob/CoverageSituations/outOfStateEmployersPolicy.jsp>.)

34. NORTH CAROLINA

The North Carolina Workers' Compensation Act provides (N.C. GEN. STAT. § 97-36):

§97-36. Accidents taking place outside State; employees receiving compensation from another state.

Where an accident happens while the employee is employed elsewhere than in this State and the accident is one which would entitle him or his dependents or next of kin to compensation if it had happened in this State, then the employee or his dependents or next of kin shall be entitled to compensation (i) if the contract of employment was made in this State, (ii) if the employer's principal place of business is in this State, or (iii) if the employee's principal place of employment is within this State; provided, however, that if an employee or his dependents or next of kin shall receive compensation or damages under the laws of any other state nothing herein contained shall be

construed so as to permit a total compensation for the same injury greater than is provided for in this Article.

35. NORTH DAKOTA

65-08-01. Extraterritorial coverage - When and how furnished. (N.D. CENT. CODE § 65-08-01)

1. An employee who suffers an injury while working outside this state, on account of which the employee or the employee's dependents would have been entitled to workforce safety and insurance benefits provided by this title had such injury occurred within this state, is entitled to benefits, or that employee's dependents in the event of the employee's death are entitled to benefits if at the time of injury:

a. The employment is principally localized in this state, as determined by the following:

(1) The employer has a place of business in this state;

(2) The employee regularly works at or from that place of business;

(3) The employment contract is entered in this state; and

(4) In the case of an employee leasing company, the company retains control over the employee and does not lease the employee to an out-of-state employer;

b. The employee is working under a contract of hire, made in this state in employment not principally localized in any state, if:

(1) The employer has a place of business in this state;

(2) The employment contract is entered in this state; and

(3) In the case of over-the-road trucking, the employer retains control over the driver, dispatches employees from this state, and does not lease the driver to out-of-state employers; but trip leasing does not end coverage;

c. The employee is working under a contract of hire made in this state in employment principally localized in another state and that state's workforce safety and insurance law is not applicable to the employer, as provided by a reciprocal agreement;

d. The employee is working under a contract of hire made in this state for employment outside the United States and the workforce safety and insurance law of that other jurisdiction is not applicable to the employer; or

e. The employee is a resident of another state, and is hired by a North Dakota employer or that employer's authorized agent for temporary employment, the situs of which is located in another state, and the temporary employment is necessary to the principal employment of the North Dakota

employer, provided that the other state recognizes the coverage under this title as the sole remedy of the employee against the employer for the injury or death.

2. The payment or award of benefits under the workforce safety and insurance law of another state, territory, province, or foreign nation to an employee or the employee's dependents otherwise entitled on account of the injury or death to workforce safety and insurance benefits of this state bars a claim for benefits under this title.

3. An employment relationship that is principally localized outside of this state is exempt from this title while the employee is temporarily within this state unless the workforce safety and insurance law of the state in which the employment is principally localized provides that the workforce safety and insurance remedy in this state is the exclusive remedy for the employee or the dependents of an employee who died as the result of an injury in this state.

4. An employer whose employment results in significant contacts with this state shall acquire workforce safety and insurance coverage in this state unless a reciprocal agreement between the states is entered which provides that the other state will likewise recognize that an employment relationship entered into in this state is exempted from the application of the workers' compensation insurance law of the other state. An employment has significant contacts with this state when:

a. Any employee earns or would have been expected to earn twenty-five percent or more of the employee's gross annual wage or income from that employer from services rendered in this state; or

b. Twenty-five percent of the employer's gross annual payroll is payable to employees for services rendered in this state.

Under this subsection, an employee injured in this state may elect to file a claim in this state notwithstanding that the employee had another remedy in the state in which the employment was principally localized. A claim filed under this subsection is subject to section 65-05-05. The time limits within which the organization shall issue a decision on a claim, as specified in sections 65-01-16 and 65-02-08, do not begin to run for claims filed under this section until the first date the organization may begin to process the claim as set forth in section 65-05-05.

5. An employer who opens an employer account with the organization under this section is obligated to report all wages earned in this state, regardless of whether the significant contacts factors set forth in subsection 4 have been met.

65-08-02. Reciprocity in extraterritorial application of compensation acts of various states provided.

Repealed by S.L. 1991, ch. 718, § 2.

65-08-03. Evidence that nonresident employer carries extraterritorial workforce safety and insurance coverage.

A certificate from the executive secretary or other duly authorized officer of workforce safety and insurance or similar organization of another state certifying that an employer of such other state is

insured under the Workforce Safety and Insurance Act or similar act thereof, and has provided extraterritorial coverage insuring that employer's employees while working within this state, is prima facie evidence that such employer carries such workforce safety and insurance.

65-08-04. Agreements between states relating to conflicts of jurisdiction.

The organization, through the action of the director, may enter into agreements with the workforce safety and insurance agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and the injuries are received in the other state, or where there is a dispute as to the boundaries or jurisdiction of the states and when such agreements have been executed and made public by the respective state agencies, the rights of the employee hired in such other state and injured while temporarily employed in this state, or hired in this state and injured while temporarily employed in another state, or where the jurisdiction is otherwise uncertain, must be determined pursuant to such agreements and confined to the jurisdiction provided in such agreements. Where such an agreement exists, any provisions of this chapter which conflict with the provisions of that agreement are superseded by the provisions of that agreement.

36. OHIO

The Ohio Bureau of Workers' Compensation provides (OHIO REV. CODE ANN. § 4123-17-23):

4123-17-23 Duties outside the state.

(A) The entire remuneration of employees, whose contracts of hire have been consummated within the borders of Ohio, whose employment involves activities both within and without the borders of Ohio, and where the supervising office of the employer is located in Ohio, shall be included in the payroll report. However, if the employer elects to obtain other-states' coverage under section 4123.292 of the Revised Code, the employer shall include in the payroll report only the remuneration for work the employees perform in Ohio and other work not covered by the other-states' policy.

(B) The remuneration of employees of other than Ohio employers, who have entered into a contract of employment outside of Ohio to perform transitory services in interstate commerce only, both within and outside of the boundaries of Ohio, shall not be included in the payroll report.

(C) The bureau of workers' compensation respects the extraterritorial right of the workers' compensation insurance coverage of an out-of-state employer for its regular employees who are residents of a state other than Ohio while performing work in the state of Ohio for a temporary period not to exceed ninety days. However, if the laws of the state of coverage do not provide this same exemption to Ohio employers and their employees working temporarily in that state, the out of state employer must obtain Ohio coverage and report to the bureau the remuneration of its employees for work performed in Ohio.

(D) Employees hired to work specifically in Ohio must be reported for workers' compensation insurance under the Ohio fund, regardless of where the contracts of hire were entered.

(E) Where there is possibility of conflict with respect to the application of the workers' compensation law because the contract of employment is entered into and all or some portion of the work is or is to be performed in different states, the employer and his employees may mutually agree to be bound by the workers' compensation laws of the state of Ohio by executing form C-110, or mutually agree to be bound by the workers' compensation law of some other state by executing form C-112, such forms to be obtained from and filed with the bureau of workers' compensation within ten days after execution.

4123.54 Compensation in case of injury or death - agreement if work performed in another state.

(A) Except as otherwise provided in divisions (I) and (K) of this section, every employee, who is injured or who contracts an occupational disease, and the dependents of each employee who is killed, or dies as the result of an occupational disease contracted in the course of employment, wherever such injury has occurred or occupational disease has been contracted, provided the same were not:

(1) Purposely self-inflicted; or

(2) Caused by the employee being intoxicated or under the influence of a controlled substance not prescribed by a physician where the intoxication or being under the influence of the controlled substance not prescribed by a physician was the proximate cause of the injury, is entitled to receive, either directly from the employee's self-insuring employer as provided in section 4123.35 of the Revised Code, or from the state insurance fund, the compensation for loss sustained on account of the injury, occupational disease, or death, and the medical, nurse, and hospital services and medicines, and the amount of funeral expenses in case of death, as are provided by this chapter.

(B) For the purpose of this section, provided that an employer has posted written notice to employees that the results of, or the employee's refusal to submit to, any chemical test described under this division may affect the employee's eligibility for compensation and benefits pursuant to this chapter and Chapter 4121. of the Revised Code, there is a rebuttable presumption that an employee is intoxicated or under the influence of a controlled substance not prescribed by the employee's physician and that being intoxicated or under the influence of a controlled substance not prescribed by the employee's physician is the proximate cause of an injury under either of the following conditions:

(1) When any one or more of the following is true:

(a) The employee, through a qualifying chemical test administered within eight hours of an injury, is determined to have an alcohol concentration level equal to or in excess of the levels established in divisions (A)(1)(b) to (i) of section 4511.19 of the Revised Code;

(b) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels in an enzyme multiplied immunoassay technique screening test and above the levels established in division (B)(1)(c) of this section in a gas chromatography mass spectrometry test:

(i) For amphetamines, one thousand nanograms per milliliter of urine;

- (ii) For cannabinoids, fifty nanograms per milliliter of urine;
- (iii) For cocaine, including crack cocaine, three hundred nanograms per milliliter of urine;
- (iv) For opiates, two thousand nanograms per milliliter of urine;
- (v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(c) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have one of the following controlled substances not prescribed by the employee's physician in the employee's system that tests above the following levels by a gas chromatography mass spectrometry test:

- (i) For amphetamines, five hundred nanograms per milliliter of urine;
- (ii) For cannabinoids, fifteen nanograms per milliliter of urine;
- (iii) For cocaine, including crack cocaine, one hundred fifty nanograms per milliliter of urine;
- (iv) For opiates, two thousand nanograms per milliliter of urine;
- (v) For phencyclidine, twenty-five nanograms per milliliter of urine.

(d) The employee, through a qualifying chemical test administered within thirty-two hours of an injury, is determined to have barbiturates, benzodiazepines, methadone, or propoxyphene in the employee's system that tests above levels established by laboratories certified by the United States department of health and human services.

(2) When the employee refuses to submit to a requested chemical test, on the condition that that employee is or was given notice that the refusal to submit to any chemical test described in division (B)(1) of this section may affect the employee's eligibility for compensation and benefits under this chapter and Chapter 4121. of the Revised Code.

(C)

(1) For purposes of division (B) of this section, a chemical test is a qualifying chemical test if it is administered to an employee after an injury under at least one of the following conditions:

- (a) When the employee's employer had reasonable cause to suspect that the employee may be intoxicated or under the influence of a controlled substance not prescribed by the employee's physician;
- (b) At the request of a police officer pursuant to section 4511.191 of the Revised Code, and not at the request of the employee's employer;
- (c) At the request of a licensed physician who is not employed by the employee's employer, and not at the request of the employee's employer.

(2) As used in division (C)(1)(a) of this section, "reasonable cause" means, but is not limited to, evidence that an employee is or was using alcohol or a controlled substance drawn from specific, objective facts and reasonable inferences drawn from these facts in light of experience and training. These facts and inferences may be based on, but are not limited to, any of the following:

(a) Observable phenomena, such as direct observation of use, possession, or distribution of alcohol or a controlled substance, or of the physical symptoms of being under the influence of alcohol or a controlled substance, such as but not limited to slurred speech, dilated pupils, odor of alcohol or a controlled substance, changes in affect, or dynamic mood swings;

(b) A pattern of abnormal conduct, erratic or aberrant behavior, or deteriorating work performance such as frequent absenteeism, excessive tardiness, or recurrent accidents, that appears to be related to the use of alcohol or a controlled substance, and does not appear to be attributable to other factors;

(c) The identification of an employee as the focus of a criminal investigation into unauthorized possession, use, or trafficking of a controlled substance;

(d) A report of use of alcohol or a controlled substance provided by a reliable and credible source;

(e) Repeated or flagrant violations of the safety or work rules of the employee's employer, that are determined by the employee's supervisor to pose a substantial risk of physical injury or property damage and that appear to be related to the use of alcohol or a controlled substance and that do not appear attributable to other factors.

(D) Nothing in this section shall be construed to affect the rights of an employer to test employees for alcohol or controlled substance abuse.

(E) For the purpose of this section, laboratories certified by the United States department of health and human services or laboratories that meet or exceed the standards of that department for laboratory certification shall be used for processing the test results of a qualifying chemical test.

(F) The written notice required by division (B) of this section shall be the same size or larger than the certificate of premium payment notice furnished by the bureau of workers' compensation and shall be posted by the employer in the same location as the certificate of premium payment notice or the certificate of self-insurance.

(G) If a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.

(H)

(1) Whenever, with respect to an employee of an employer who is subject to and has complied with this chapter, there is possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is or is to be

performed in a state or states other than Ohio, the employer and the employee may agree to be bound by the laws of this state or by the laws of some other state in which all or some portion of the work of the employee is to be performed. The agreement shall be in writing and shall be filed with the bureau of workers' compensation within ten days after it is executed and shall remain in force until terminated or modified by agreement of the parties similarly filed. If the agreement is to be bound by the laws of this state and the employer has complied with this chapter, then the employee is entitled to compensation and benefits regardless of where the injury occurs or the disease is contracted and the rights of the employee and the employee's dependents under the laws of this state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment. If the agreement is to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and the employee's dependents under the laws of that state are the exclusive remedy against the employer on account of injury, disease, or death in the course of and arising out of the employee's employment without regard to the place where the injury was sustained or the disease contracted. If an employer and an employee enter into an agreement under this division, the fact that the employer and the employee entered into that agreement shall not be construed to change the status of an employee whose continued employment is subject to the will of the employer or the employee, unless the agreement contains a provision that expressly changes that status.

(2) If any employee or the employee's dependents pursue workers' compensation benefits or recover damages from the employer under the laws of another state, the amount awarded or recovered, whether paid or to be paid in future installments, shall be credited on the amount of any award of compensation or benefits made to the employee or the employee's dependents by the bureau. If an employee or the employee's dependents pursue or receive an award of compensation or benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for the same injury, occupational disease, or death for which the employee or the employee's dependents pursued workers' compensation benefits and received a decision on the merits as defined in section 4123.542 of the Revised Code under the laws of another state or recovered damages under the laws of another state, the administrator or any employer, by any lawful means, may collect the amount of compensation or benefits paid to or on behalf of the employee or the employee's dependents by the administrator or a self-insuring employer pursuant to this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that award. The administrator or any employer also may collect from the employee or the employee's dependents any costs and attorney's fees the administrator or the employer incurs in collecting that payment and any attorney's fees, penalties, interest, awards, and costs incurred by an employer in contesting or responding to any claim filed by the employee or the employee's dependents for the same injury, occupational disease, or death that was filed after the original claim for which the employee or the employee's dependents received a decision on the merits as described in section 4123.542 of the Revised Code. If the employee's employer pays premiums into the state insurance fund, the administrator shall not charge the amount of compensation or benefits the administrator collects pursuant to this division to the employer's experience. If the administrator collects any costs, penalties, interest, awards, or attorney's fees incurred by a state fund employer, the administrator shall forward the amount of such costs, penalties, interest, awards, and attorney's fees the administrator collects to that employer. If the employee's employer is a self-insuring employer, the self-insuring employer shall

deduct the amount of compensation or benefits the self-insuring employer collects pursuant to this division from the paid compensation the self-insuring employer reports to the administrator under division (L) of section 4123.35 of the Revised Code.

(3) Except as otherwise stipulated in division (H)(4) of this section, if an employee is a resident of a state other than this state and is insured under the workers' compensation law or similar laws of a state other than this state, the employee and the employee's dependents are not entitled to receive compensation or benefits under this chapter, on account of injury, disease, or death arising out of or in the course of employment while temporarily within this state, and the rights of the employee and the employee's dependents under the laws of the other state are the exclusive remedy against the employer on account of the injury, disease, or death.

(4) Division (H)(3) of this section does not apply to an employee described in that division, or the employee's dependents, unless both of the following apply:

(a) The laws of the other state limit the ability of an employee who is a resident of this state and is covered by this chapter and Chapter 4123. of the Revised Code, or the employee's dependents, to receive compensation or benefits under the other state's workers' compensation law on account of injury, disease, or death incurred by the employee that arises out of or in the course of the employee's employment while temporarily within that state in the same manner as specified in division (H)(3) of this section for an employee who is a resident of a state other than this state, or the employee's dependents;

(b) The laws of the other state limit the liability of the employer of the employee who is a resident of this state and who is described in division (H)(4)(a) of this section for that injury, disease, or death, in the same manner specified in division (H)(3) of this section for the employer of an employee who is a resident of the other state.

(5) An employee, or the dependent of an employee, who elects to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for a claim may not receive compensation and benefits under the workers' compensation laws of any state other than this state for that same claim. For each claim submitted by or on behalf of an employee, the administrator or, if the employee is employed by a self-insuring employer, the self-insuring employer shall request the employee or the employee's dependent to sign an election that affirms the employee's or employee's dependent's acceptance of electing to receive compensation and benefits under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code for that claim that also affirmatively waives and releases the employee's or the employee's dependent's right to file for and receive compensation and benefits under the laws of any state other than this state for that claim. The employee or employee's dependent shall sign the election form within twenty-eight days after the administrator or self-insuring employer submits the request or the administrator or self-insuring employer shall suspend that claim until the administrator or self-insuring employer receives the signed election form.

(I) If an employee who is covered under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., is injured or contracts an occupational disease or dies as a result of an injury or occupational disease, and if that employee's or that employee's dependents' claim

for compensation or benefits for that injury, occupational disease, or death is subject to the jurisdiction of that act, the employee or the employee's dependents are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an employee and the employee's dependents under the federal "Longshore and Harbor Workers' Compensation Act," 98 Stat. 1639, 33 U.S.C. 901 et seq., are the exclusive remedy against the employer for that injury, occupational disease, or death.

(J) Compensation or benefits are not payable to a claimant during the period of confinement of the claimant in any state or federal correctional institution, or in any county jail in lieu of incarceration in a state or federal correctional institution, whether in this or any other state for conviction of violation of any state or federal criminal law.

(K) An employer, upon the approval of the administrator, may provide for workers' compensation coverage for the employer's employees who are professional athletes and coaches by submitting to the administrator proof of coverage under a league policy issued under the laws of another state under either of the following circumstances:

(1) The employer administers the payroll and workers' compensation insurance for a professional sports team subject to a collective bargaining agreement, and the collective bargaining agreement provides for the uniform administration of workers' compensation benefits and compensation for professional athletes.

(2) The employer is a professional sports league, or is a member team of a professional sports league, and all of the following apply:

(a) The professional sports league operates as a single entity, whereby all of the players and coaches of the sports league are employees of the sports league and not of the individual member teams.

(b) The professional sports league at all times maintains workers' compensation insurance that provides coverage for the players and coaches of the sports league.

(c) Each individual member team of the professional sports league, pursuant to the organizational or operating documents of the sports league, is obligated to the sports league to pay to the sports league any workers' compensation claims that are not covered by the workers' compensation insurance maintained by the sports league. If the administrator approves the employer's proof of coverage submitted under division (K) of this section, a professional athlete or coach who is an employee of the employer and the dependents of the professional athlete or coach are not entitled to apply for and shall not receive compensation or benefits under this chapter and Chapter 4121. of the Revised Code. The rights of such an athlete or coach and the dependents of such an athlete or coach under the laws of the state where the policy was issued are the exclusive remedy against the employer for the athlete or coach if the athlete or coach suffers an injury or contracts an occupational disease in the course of employment, or for the dependents of the athlete or the coach if the athlete or coach is killed as a result of an injury or dies as a result of an occupational disease, regardless of the location where the injury was suffered or the occupational disease was contracted.

4123.292 Election to obtain other-states' coverage.

(A) Notwithstanding sections 4123.35 and 4123.82 of the Revised Code, an employer may elect to obtain other-states' coverage through an other-states' insurer or, if the administrator of workers' compensation elects to offer such coverage, through the administrator pursuant to division (B) of this section. An employer who elects to obtain other-states' coverage shall submit a written notice to the administrator stating that election and, if the employer elects to obtain that coverage through an other-states' insurer, the name of the other-states' insurer through whom the employer has obtained that coverage. If an employer fails to pay the employer's premium for other-states' coverage, the administrator shall consider the employer to be noncompliant for the purposes of having other-states' coverage but shall not consider the employer to be a noncomplying employer for purposes of this chapter or Chapter 4121., 4127., or 4131. of the Revised Code unless the employer otherwise fails to comply with section 4123.35 of the Revised Code.

(B) The administrator may secure other-states' coverage to allow an employer who wishes to obtain other-states' coverage pursuant to this section and who elects to obtain that coverage through the administrator for workers' compensation claims arising in a state or states other than this state. If the administrator elects to secure other-states' coverage, the administrator shall follow the competitive bidding requirements specified in Chapter 125. of the Revised Code to select one other-states' insurer, and the administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall award the contract to provide other-states' coverage for employers located in this state to the other-states' insurer that is the lowest and best bidder.

(C) If the administrator elects to secure other-states' coverage pursuant to division (B) of this section, the administrator shall calculate an employer's premium for other-states' coverage provided through the administrator separately from calculating any other premiums or assessments charged under this chapter or Chapter 4121., 4127., or 4131. of the Revised Code. The administrator shall calculate the employer's other-states' coverage premium in the same manner the administrator calculates an employer's premium for the state insurance fund pursuant to division (A) of section 4123.29 and section 4123.34 of the Revised Code, except that, when calculating the employer's premium for other-states' coverage under this division, the administrator shall do all of the following:

(1) Base the employer's other-states' coverage premium on the terms specified in the contract the administrator enters into with an insurance company pursuant to division (B) of this section;

(2) When determining the expenditure of wages, payroll, or both upon which to base the employer's other-states' coverage premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;

(3) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this state or any compensation or benefits paid for claims covered by the state insurance fund.

(D) If the administrator elects to secure other states' coverage, the administrator, with the advice and consent of the board, shall adopt rules to implement divisions (B) and (C) of this section.

(E) An other-states' insurer that provides other-states' coverage to an employer pursuant to this section shall do all of the following when calculating the employer's premium for that coverage:

(1) When determining the amount of wages, payroll, or both upon which to base the employer's premium, use only the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in a state or states other than this state;

(2) Not take into account the amount of wages, payroll, or both the employer paid to the employer's employees for performing labor or providing services for the employer in this state or any compensation or benefits paid for claims otherwise covered by this chapter or Chapter 4121., 4127., or 4131. of the Revised Code;

(3) Take into account any other factors the other-states' insurer uses to calculate premiums for workers' compensation insurance.

(F) The board and the individual members thereof, the administrator, and the bureau of workers' compensation shall not incur any obligation or liability if another state determines that the other-states' coverage provided under this section does not satisfy the requirements specified in that state's workers' compensation law for obtaining workers' compensation coverage in that state.

37. OKLAHOMA

In 2011, the Oklahoma Legislature substantially revised the statutes relating to workers' compensation. The Legislature replaced the Workers' Compensation Act (the Act) with the new Workers' Compensation Code (the Code), both by adding new provisions and by repealing and renumbering statutory provisions found in the previous Act. In 2013, the Oklahoma Legislature repealed the Code and enacted the Administrative Employees' Compensation Act [Administrative Act]. The new administrative statutes theoretically go into effect on February 1, 2014 -- Okla. Stat. tit. 85A, §§ 1-400. (Todd Estes, *State of Oklahoma Workers' Compensation Compendium of Law*, U.S. Law Network Inc., http://web.uslaw.org/wp-content/uploads/2013/09/Oklahoma_Workers-Comp_2013.pdf.)

Title 85. Workers' Compensation (OKLA. STAT. tit. 85 § 310)

Chapter 11 - General Provisions

Section 310 - Covered Employer's Duty to Provide Benefits - Jurisdiction of the Workers' Compensation Code

(This Statute Will Be Superseded Effective: 02/01/2014)

A. Every employer subject to the provisions of the Workers' Compensation Code shall pay or provide benefits according to the provisions of this act for the accidental injury or death of an employee arising

out of and in the course of his or her employment, without regard to fault for such injury, if the employee's contract of employment was made or if the injury occurred within this state. If an employee makes claim for an injury in another jurisdiction and a final adjudication is entered in the case, the employee is precluded from his or her right of action under the Workers' Compensation Code of this state. If the employee brings an action in this state prior to a final adjudication in another jurisdiction, any receipt of benefits in the other jurisdiction shall not bar the action in this state; provided, however, in no event shall the Workers' Compensation Court grant benefits that duplicate those paid by the employer or insurance carrier in the other jurisdiction.

B. The State of Oklahoma accepts the provisions of the Acts of Congress designated as 40 U.S.C., Section 3172, formerly 40 U.S.C., Section 290, and hereby extends the territorial jurisdiction of the Workers' Compensation Code of this state to all lands and premises within the exterior boundaries of this state which the Government of the United States of America owns or holds by deed or act of cession, and to all purchases, projects, buildings, constructions, improvements and property within the exterior boundaries of this state belonging to the Government of the United States of America, in the same way and to the same extent as if the premises were under the exclusive jurisdiction of this state, subject only to the limitations placed thereon by the Acts of Congress.

38. OREGON

Oregon Workers' Compensation provides the following (OR. REV. STAT. § 656.126 (2011)) :

§ 656.126

Coverage while temporarily in or out of state

- judicial notice of other states laws
- agreements between states relating to conflicts of jurisdiction
- limitation on compensation for claims in this state and other jurisdictions

(1)

If a worker employed in this state and subject to this chapter temporarily leaves the state incidental to that employment and receives an accidental injury arising out of and in the course of employment, the worker, or beneficiaries of the worker if the injury results in death, is entitled to the benefits of this chapter as though the worker were injured within this state.

(2)

Any worker from another state and the employer of the worker in that other state are exempted from the provisions of this chapter while that worker is temporarily within this state doing work for the employer:

(a)

If that employer has furnished workers compensation insurance coverage under the workers compensation insurance or similar laws of a state other than Oregon so as to cover that workers employment while in this state;

(b)

If the extraterritorial provisions of this chapter are recognized in that other state; and

(c)

If employers and workers who are covered in this state are likewise exempted from the application of the workers compensation insurance or similar laws of the other state.

The benefits under the workers compensation insurance Act or similar laws of the other state, or other remedies under a like Act or laws, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the worker while working for that employer in this state.

(3)

A certificate from the duly authorized officer of the Department of Consumer and Business Services or similar department of another state certifying that the employer of the other state is insured therein and has provided extraterritorial coverage insuring workers while working within this state is prima facie evidence that the employer carries that workers compensation insurance.

(4)

Whenever in any appeal or other litigation the construction of the laws of another jurisdiction is required, the courts shall take judicial notice thereof.

(5)

The Director of the Department of Consumer and Business Services shall have authority to enter into agreements with the workers compensation agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and the injuries are received in the other state, or where there is a dispute as to the boundaries or jurisdiction of the states and when such agreements have been executed and made public by the respective state agencies, the rights of workers hired in such other state and injured while temporarily in Oregon, or hired in Oregon and injured while temporarily in another state, or where the jurisdiction is otherwise uncertain, shall be determined pursuant to such agreements and confined to the jurisdiction provided in such agreements.

(6)

When a worker has a claim under the workers compensation law of another state, territory, province or foreign nation for the same injury or occupational disease as the claim filed in Oregon, the total amount of compensation paid or awarded under such other workers compensation law shall be credited against the compensation due under Oregon workers compensation law. The worker shall be entitled to the full amount of compensation due under Oregon law. If Oregon compensation is more than the

compensation under another law, or compensation paid the worker under another law is recovered from the worker, the insurer shall pay any unpaid compensation to the worker up to the amount required by the claim under Oregon law.

436-050-0055

Extraterritorial Coverage

(1) Criteria to be used in determining whether a worker is temporarily in or out of state under ORS 656.126 may include, but are not limited to:

- (a) The extent to which the worker's work within the state is of a temporary duration;
- (b) The intent of the employer in regard to the worker's employment status;
- (c) The understanding of the worker in regard to the employment status with the employer;
- (d) The permanent location of the employer and its permanent facilities;
- (e) The circumstances and directives surrounding the worker's work assignment;
- (f) The state laws and regulations to which the employer is otherwise subject;
- (g) The residence of the worker;
- (h) The extent to which the employer's work in the state is of a temporary duration, established by a beginning date and expected ending date of the employer's work; and
- (i) Other information relevant to the determination.

(2) Within 30 days after coverage of an Oregon employer is effective, the insurer providing the coverage must notify the employer in writing of the provisions of ORS 656.126 and this rule.

39. PENNSYLVANIA

The Pennsylvania Workers' Compensation Act provides the following (PA. CON. STAT. ANN. § 305.2 (2009)):

Section 305.2

(a) If an employe, while working outside the territorial limits of this State, suffers an injury on account of which he, or in the event of his death, his dependents, would have been entitled to the benefits provided by this act had such injury occurred within this State, such employe, or in the event of his death resulting from such injury, his dependents, shall be entitled to the benefits provided by this act, provided that at the time of such injury:

- (1) His employment is principally localized in this State, or

(2) He is working under a contract of hire made in this State in employment not principally localized in any state, or

(3) He is working under a contract of hire made in this State in employment principally localized in another state whose workmen's compensation law is not applicable to his employer, or

(4) He is working under a contract of hire made in this State for employment outside the United States and Canada.

(b) The payment or award of benefits under the workmen's compensation law of another state, territory, province or foreign nation to an employe or his dependents otherwise entitled on account of such injury or death to the benefits of this act shall not be a bar to a claim for benefits under this act; provided that claim under this act is filed within three years after such injury or death. If compensation is paid or awarded under this act:

(1) The medical and related benefits furnished or paid for by the employer under such other workmen's compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employe would have been entitled under this act had claim been made solely under this act.

(2) The total amount of all income benefits paid or awarded the employe under such other workmen's compensation law shall be credited against the total amount of income benefits which would have been due the employe under this act, had claim been made solely under this act.

(3) The total amount of death benefits paid or awarded under such other workmen's compensation law shall be credited against the total amount of death benefits due under this act.

Nothing in this act shall be construed to mean that coverage under this act excludes coverage under another law or that an employe's election to claim compensation under this act is exclusive of coverage under another state act or is binding on the employe or dependent, except, perhaps to the extent of an agreement between the employe and the employer or where employment is localized to the extent that an employe's duties require him to travel regularly in this State and another state or states.

(c) If an employe is entitled to the benefits of this act by reason of an injury sustained in this State in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this act, the employer or his carrier may file with the director a certificate, issued by the commission or agency of such other state having jurisdiction over workmen's compensation claims, certifying that such employer has secured the payment of compensation under the workmen's compensation law of such other state and that with respect to said injury such employe is entitled to the benefits provided under such law.

In such event:

(1) The filing of such certificate shall constitute an appointment by such employer or his carrier of the Secretary of Labor and Industry as his agent for acceptance of the service of process in any proceeding

brought by such employe or his dependents to enforce his or their rights under this act on account of such injury;

(2) The secretary shall send to such employer or carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the secretary by the employe or his dependents in any proceeding brought to enforce his or their rights under this act;

(3)

(i) If such employer is a qualified self-insurer under the workmen's compensation law of such other state, such employer shall, upon submission of evidence, satisfactory to the director, of his ability to meet his liability to such employe under this act, be deemed to be a qualified self-insurer under this act;

(ii) If such employer's liability under the workmen's compensation law of such other state is insured, such employer's carrier, as to such employe or his dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this act: Provided, however, That unless its contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this act, its liability for income benefits or medical and related benefits shall not exceed the amounts of such benefits for which such insurer would have been liable under the workmen's compensation law of such other state;

(4) If the total amount for which such employer's insurance is liable under clause (3) above is less than the total of the compensation benefits to which such employe is entitled under this act, the secretary may, if he deems it necessary, require the employer to file security, satisfactory to the secretary, to secure the payment of benefits due such employe or his dependents under this act; and

(5) Upon compliance with the preceding requirements of this subsection (c), such employer, as to such employe only, shall be deemed to have secured the payment of compensation under this act.

(d) As used in this section:

(1) "United States" includes only the states of the United States and the District of Columbia.

(2) "State" includes any state of the United States, the District of Columbia, or any Province of Canada.

(3) "Carrier" includes any insurance company licensed to write workmen's compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workmen's compensation law.

(4) A person's employment is principally localized in this or another state when (i) his employer has a place of business in this or such other state and he regularly works at or from such place of business, or (ii) having worked at or from such place of business, his duties have required him to go outside of the State not over one year, or (iii) if clauses (1) and (2) foregoing are not applicable, he is domiciled and spends a substantial part of his working time in the service of his employer in this or such other state.

(5) An employe whose duties require him to travel regularly in the service of his employer in this and one or more other states may, by written agreement with his employer, provide that his employment is principally localized in this or another such state, and, unless such other state refuses jurisdiction, such agreement shall be given effect under this act.

(6) "Workmen's compensation law" includes "occupational disease law."

40. RHODE ISLAND

Title 28 entitled "Labor and Labor Relations", Chapter 28-29, "Workers' Compensation – General Provisions" Section 28-29-16 provides the following (R.I. GEN. LAWS § 28-29-16):

§ 28-29-16 Certificate of coverage by another state. – A certificate from the duly authorized officer of the workers' compensation commission or similar department of another state certifying that the employer from that other state is insured in that state and has provided extraterritorial coverage insuring his or her employees while working within this state shall be prima facie evidence that the employer carries the compensation insurance.

§ 28-29-15 Exemption of professional hockey personnel. – Professional ice hockey players, coaches, and trainers employed by a professional ice hockey club, including but not limited to National Hockey League or American Hockey League clubs, shall be exempted from the provisions of chapters 29 – 38 of this title while that employee is temporarily within this state doing work for his or her employer. Professional ice hockey players, coaches, and trainers employed by, or on assignment or transfer from their employer, shall be exempted if the employer has furnished workers' compensation insurance coverage under the workers' compensation or similar laws of the other state so as to cover the employee's employment while in this state; provided, that the extraterritorial provisions of chapters 29 – 38 of this title are recognized in the other state and provided employers and employees who are covered in this state are likewise exempted from the application of the workers' compensation or similar laws of the other state; provided further that the requirement for recognition in the other state of the extraterritorial provisions of chapters 29 – 38 of this title and the requirement that employers and employees who are covered in this state are likewise exempted from the application of the workers' compensation or similar laws of the other state shall not apply to any employees who are professional ice hockey players, coaches, and trainers employed by a professional ice hockey club, including, but not limited to National Hockey League or American Hockey League clubs described in this section. The benefits under the Workers' Compensation Act or similar laws of the other state shall be the exclusive remedy against that employer for any injury, whether resulting in death or not, received by any employee while working for that employer in this state.

§ 28-29-1.3 Jurisdiction of Workers' Compensation Act. – The provisions of chapters 29 – 38 of this title shall apply to any and all employees, as defined in § 28-29-2(4), who are injured or hired in the state of Rhode Island.

§ 28-29-2 Definitions. – In chapters 29 – 38 of this title, unless the context otherwise requires:

(4) "Employee" means any person who has entered into the employment of or works under contract of service or apprenticeship with any employer, except that in the case of a city or town other than the city of Providence it shall only mean that class or those classes of employees as may be designated by a city, town, or regional school district in a manner provided in this chapter to receive compensation under chapters 29 – 38 of this title. Any person employed by the state of Rhode Island, except for sworn employees of the Rhode Island State Police, or by the Rhode Island Airport Corporation who is otherwise entitled to the benefits of chapter 19 of title 45 shall be subject to the provisions of chapters 29 – 38 of this title for all case management procedures and dispute resolution for all benefits. The term "employee" does not include any individual who is a shareholder or director in a corporation, general or limited partners in a general partnership, a registered limited liability partnership, a limited partnership, or partners in a registered limited liability limited partnership, or any individual who is a member in a limited liability company. These exclusions do not apply to shareholders, directors and members who have entered into the employment of or who work under a contract of service or apprenticeship within a corporation or a limited liability company. The term "employee" also does not include a sole proprietor, independent contractor, or a person whose employment is of a casual nature, and who is employed other than for the purpose of the employer's trade or business, or a person whose services are voluntary or who performs charitable acts, nor shall it include the members of the regularly organized fire and police departments of any town or city except for appeals from an order of the retirement board filed pursuant to the provisions of Rhode Island general law § 45-21.2-9; provided, however, that it shall include the members of the police and aircraft rescue and firefighting (ARFF) units of the Rhode Island Airport Corporation. Whenever a contractor has contracted with the state, a city, town, or regional school district any person employed by that contractor in work under contract shall not be deemed an employee of the state, city, town, or regional school district as the case may be. Any person who on or after January 1, 1999, was an employee and became a corporate officer shall remain an employee, for purposes of these chapters, unless and until coverage under this act is waived pursuant to subsection 28-29-8(b) or § 28-29-17. Any person who is appointed a corporate officer between January 1, 1999 and December 31, 2001, and was not previously an employee of the corporation, will not be considered an employee, for purposes of these chapters, unless that corporate officer has filed a notice pursuant to subsection 28-29-19(b). In the case of a person whose services are voluntary or who performs charitable acts, any benefit received, in the form of monetary remuneration or otherwise, shall be reportable to the appropriate taxation authority but shall not be deemed to be wages earned under contract of hire for purposes of qualifying for benefits under chapters 29 – 38 of this title. Any reference to an employee who had been injured shall, where the employee is dead, include a reference to his or her dependents as defined in this section, or to his or her legal representatives, or, where he or she is a minor or incompetent, to his or her conservator or guardian. A "seasonal occupation" means those occupations in which work is performed on a seasonal basis of not more than sixteen (16) weeks.

41. SOUTH CAROLINA

The South Carolina Workers' Compensation Law provides (S.C. CODE ANN. § 42-1-360 (2012)):

SECTION 42-1-360. Exemption of casual employees and certain other employments from Title.

This title does not apply to:

(1) a casual employee, as defined in Section 42-1-130;

(2) any person who has regularly employed in service less than four employees in the same business within the State or who had a total annual payroll during the previous calendar year of less than three thousand dollars regardless of the number of persons employed during that period;

(3) a state and county fair association, unless the employer voluntarily elects to be bound by this title, as provided by Section 42-1-380;

(4) an agricultural employee, unless the agricultural employer voluntarily elects to be bound by this title, as provided by Section 42-1-380;

(5) a railroad, railroad employee, railway express company, or railway express company employee; nor may this title be construed to repeal, amend, alter, or affect in any way the laws of this State relating to the liability of a railroad or railway express company for an injury to a respective employee;

(6) a person engaged in selling any agricultural product for a producer of them on commission or for other compensation, paid by a producer, when the product is prepared for sale by the producer;

(7) a licensed real estate sales person engaged in the sale, leasing, or rental of real estate for a licensed real estate broker on a straight commission basis and who has signed a valid independent contractor agreement with the broker;

(8) a federal employee in this State;

(9) an individual who owns or holds under a bona fide lease-purchase or installment-purchase agreement a tractor trailer, tractor, or other vehicle, referred to as "vehicle", and who, under a valid independent contractor contract provides that vehicle and the individual's services as a driver to a motor carrier. For purposes of this item, any lease-purchase or installment-purchase of the vehicle may not be between the individual and the motor carrier referenced in this title, but it may be between the individual and an affiliate, subsidiary, or related entity or person of the motor carrier, or any other lessor or seller. Where the lease-purchase or installment-purchase is between the individual and an affiliate, subsidiary, or related entity or person of the motor carrier, or any other lessor or seller, the vehicle acquisition or financing transaction must be on terms equal to terms available in customary and usual retail transactions generally available in the State. This individual is considered an independent contractor and not an employee of the motor carrier under this title. The individual and the motor carrier to whom the individual contracts or leases the vehicle mutually may agree that the individual or workers, or both, is covered under the motor carrier's workers' compensation policy or authorized self-insurance if the individual agrees to pay the contract amounts requested by the motor carrier. Under any such agreement, the independent contractor or workers, or both, must be considered an employee of the motor carrier only for the purposes of this title and for no other purposes.

Title 42 - Workers' Compensation; Chapter 15.

NOTICE OF ACCIDENT; FILING OF CLAIMS; MEDICAL ATTENTION AND EXAMINATION

SECTION 42-15-10. State law under which claim is authorized to be filed.

Any employee covered by the provisions of this Title is authorized to file his claim under the laws of the state where he is hired, the state where he is injured, or the state where his employment is located. If an employee shall receive compensation or damages under the laws of any other state, nothing contained in this section shall be construed to permit a total compensation for the same injury greater than that provided in this Title.

42. SOUTH DAKOTA

Title 62 "Workers' Compensation"; CHAPTER 62-3 of South Dakota Codified Laws entitled "COVERED EMPLOYMENT AND EMPLOYER'S RESPONSIBILITY" provides the following (S.D. CODIFIED LAWS § 62-3-14 (2012)):

62-3-14. Reciprocity with other states. In any case where another state shall recognize workers' compensation coverage pursuant to the provisions of the South Dakota law as meeting the requirements of workers' compensation coverage under the laws of that state, reciprocity shall be granted worker's compensation coverage pursuant to the foreign law in this state.

Source: SDC 1939, § 64.0113 as enacted by SL 1951, ch 466.

62-3-3. Employer and employee bound by provisions of title--Exceptions. Every employer and employee shall be presumed to have accepted the provisions of this title, and shall be thereby bound, whether injury or death resulting from such injury occurs within this state or elsewhere, except as provided by §§ 62-3-4 to 62-3-5.1, inclusive.

Source: SL 1917, ch 376, §§ 2, 18; RC 1919, §§ 9437, 9453; SDC 1939, § 64.0105; SL 1971, ch 279, § 1; SL 1978, ch 370, § 3.

62-3-4. Employment covered by federal compensation law not subject to title. Other than chapter 62-6, this title does not apply to any employee engaged in interstate or foreign commerce, or to any such employee's employer, in any case where the laws of the United States provide for compensation, or for liability for injury or death by accident of the employee.

Source: SL 1917, ch 376, § 17; RC 1919, § 9452; SDC 1939, § 64.0105 (1); SL 2008, ch 278, § 6.

62-3-5.1. Notice by corporate officer rejecting coverage--Withdrawal of rejection. Section 62-3-3 does not apply to an executive officer of a corporation who, at the time of the officer's election or appointment, or more than thirty days prior to the officer's injury or death or, in the case of chapter 62-8, thirty days prior to contracting or incurring any occupational disease, serves upon the corporation, personally or by certified mail, written notice of election to reject the provisions of this title. The rejection may be withdrawn by the officer by serving a written notice in the same manner upon the

corporation more than thirty days prior to the officer's injury or death or, in the case of chapter 62-8, thirty days prior to contracting or incurring any occupational disease.

Source: SDCL § 62-3-3 as added by SL 1971, ch 279, § 1; SL 1978, ch 370, § 4; SL 2008, ch 278, § 8.

43. TENNESSEE

Tennessee Code; TITLE 50 EMPLOYER AND EMPLOYEE; CHAPTER 6 WORKERS' COMPENSATION; PART 1 GENERAL PROVISIONS; 50-6-115. Extraterritorial application of chapter. (TENN. CODE ANN. § 50-6-115 (2010))

50-6-115. Extraterritorial application of chapter.

If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or, in the event of the employee's death, the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, the employee, or in the event of the employee's death resulting from such injury, the employee's dependents, shall be entitled to the benefits provided by this chapter; provided, that at the time of such injury:

- (1) The employment was principally localized within this state;
- (2) The contract of hire was made in this state; or
- (3) If at the time of the injury the injured worker was a Tennessee resident and there existed a substantial connection between this state and the particular employer and employee relationship.

44. TEXAS

The Texas Labor Code, Title 5 entitled "Workers' Compensation", SUBTITLE A. TEXAS WORKERS' COMPENSATION ACT, CHAPTER 406. WORKERS' COMPENSATION INSURANCE COVERAGE, SUBCHAPTER D. EXTRATERRITORIAL COVERAGE states (TEX. LAB. CODE tit. 5, § 406.071):

Sec. 406.071. EXTRATERRITORIAL COVERAGE. (a) An employee who is injured while working in another jurisdiction or the employee's legal beneficiary is entitled to all rights and remedies under this subtitle if:

- (1) the injury would be compensable if it had occurred in this state; and
 - (2) the employee has significant contacts with this state or the employment is principally located in this state.
- (b) An employee has significant contacts with this state if the employee was hired or recruited in this state and the employee:
- (1) was injured not later than one year after the date of hire; or

(2) has worked in this state for at least 10 working days during the 12 months preceding the date of injury.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 406.072. PRINCIPAL LOCATION. The principal location of a person's employment is where:

- (1) the employer has a place of business at or from which the employee regularly works; or
- (2) the employee resides and spends a substantial part of the employee's working time.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Sec. 406.073. AGREEMENT ON PRINCIPAL LOCATION; ADMINISTRATIVE VIOLATION. (a) An employee whose work requires regular travel between this state and at least one other jurisdiction may agree in writing with the employer on the principal location of the employment.

(b) The employer shall file the agreement with the division on request.

(c) A person commits an administrative violation if the person violates Subsection (b).

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265, Sec. 3.033, eff. September 1, 2005.

Sec. 406.074. INTERJURISDICTIONAL AGREEMENTS. (a) The commissioner may enter into an agreement with an appropriate agency of another jurisdiction with respect to:

- (1) conflicts of jurisdiction;
- (2) assumption of jurisdiction in a case in which the contract of employment arises in one state and the injury is incurred in another;
- (3) procedures for proceeding against a foreign employer who fails to comply with this subtitle; and
- (4) procedures for the appropriate agency to use to proceed against an employer of this state who fails to comply with the workers' compensation laws of the other jurisdiction.

(b) An executed agreement that has been adopted as a rule by the commissioner binds all subject employers and employees.

(c) In this section, "appropriate agency" means an agency of another jurisdiction that administers the workers' compensation laws of that jurisdiction.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 265, Sec. 3.034, eff. September 1, 2005.

Sec. 406.075. EFFECT OF COMPENSATION PAID IN OTHER JURISDICTION. (a) An injured employee who elects to pursue the employee's remedy under the workers' compensation laws of another jurisdiction and who recovers benefits under those laws may not recover under this subtitle.

(b) The amount of benefits accepted under the laws of the other jurisdiction without an election under Subsection (a) shall be credited against the benefits that the employee would have received had the claim been made under this subtitle.

Acts 1993, 73rd Leg., ch. 269, Sec. 1, eff. Sept. 1, 1993.

45. UTAH

Utah Title 34A, Utah Labor Code, Chapter 2, entitled "Workers' Compensation Act" Section 405

Employee injured outside state -- Entitled to compensation -- Limitation of time. (UTAH. CODE ANN. § 34A-2-405)

34A-2-405. Employee injured outside state -- Entitled to compensation -- Limitation of time.

(1) Except as provided in Subsection (2), if an employee who has been hired or is regularly employed in this state receives personal injury by accident arising out of and in the course of employment outside of this state, the employee, or the employee's dependents in case of the employee's death, shall be entitled to compensation according to the law of this state.

(2) This section applies only to those injuries received by the employee within six months after leaving this state, unless prior to the expiration of the six-month period the employer has filed with the division notice that the employer has elected to extend such coverage a greater period of time.

34A-2-406. Exemptions from chapter for employees temporarily in state -- Conditions -- Evidence of insurance.

(1) Any employee who has been hired in another state and the employee's employer are exempt from this chapter and Chapter 3, Utah Occupational Disease Act, while the employee is temporarily within this state doing work for the employee's employer if:

(a) the employer has furnished workers' compensation insurance coverage under the workers' compensation or similar laws of the other state;

(b) the coverage covers the employee's employment while in this state; and

(c) (i) the extraterritorial provisions of this chapter and Chapter 3 are recognized in the other state and employers and employees who are covered in this state are likewise exempted from the application of the workers' compensation or similar laws of the other state; or

(ii) the Workers' Compensation Fund:

(A) is an admitted insurance carrier in the other state; or

(B) has agreements with a carrier and is able to furnish workers' compensation insurance or similar coverage to Utah employers and their subsidiaries or affiliates doing business in the other state.

(2) The benefits under the workers' compensation or similar laws of the other state are the exclusive remedy against an employer for any injury, whether resulting in death or not, received by an employee while working for the employer in this state.

(3) A certificate from an authorized officer of the industrial commission or similar department of the other state certifying that the employer is insured in the other state and has provided extraterritorial coverage insuring the employer's employees while working in this state is prima facie evidence that the employer carries compensation insurance.

46. VERMONT

The Vermont Statutes, under Title 21: Labor, Chapter 9: EMPLOYER'S LIABILITY AND WORKERS' COMPENSATION provides the following (VT. STAT. ANN. tit. 21 § 616):

21 V.S.A. § 616. Employments covered

§ 616. Employments covered

(a) Except as otherwise provided in this section and other provisions of this chapter, this chapter shall apply to all employment in this state, and where provided, to employment outside of the state.

(b) This chapter does not apply to employment in any case where the laws of the United States of America provide for compensation, by an employer to his or her employee, for injury or death in employment. However, if jurisdiction is vested in this state under such laws, this chapter shall apply to the employment. (Amended 1967, No. 51; 1973, No. 70, § 2.)

§ 619. Injuries outside of state

If a worker who has been hired in this state receives personal injury by accident arising out of and in the course of such employment, he or she shall be entitled to compensation according to the law of this state even though such injury was received outside of this state. (Amended 1981, No. 165 (Adj. Sess.), § 1.)

§ 620. Worker hired outside of state

If a worker who has been hired outside of this state is injured while engaged in his or her employer's business and is entitled to compensation for such injury under the law of the state where he or she was hired, he or she shall be entitled to enforce against his or her employer his or her rights in this state, if

his or her rights are such that they can be reasonably determined and dealt with by the commissioner and the court in this state. (Amended 1981, No. 165 (Adj. Sess.), § 1.)

§ 621. Interstate commerce

The provisions of this chapter shall affect the liability of employers to employees engaged in interstate or foreign commerce or otherwise only so far as the same is permissible under the laws of the United States.

§ 623. Contracts to work outside state

Employers who hire workers within this state to work outside of the state may agree with such workers that the remedies under the provisions of this chapter shall be exclusive as regards injuries received outside this state by accident arising out of and in the course of such employment. All contracts of hiring in this state shall be presumed to include such an agreement. (Amended 1981, No. 165 (Adj. Sess.), § 1.)

47. VIRGINIA

The Code of Virginia under Title 65.2, "Workers' Compensation" provides the following (VA. CODE ANN. § 65.2-508):

§ 65.2-508. Foreign injuries.

A. When an accident happens while the employee is employed elsewhere than in this Commonwealth which would entitle him or his dependents to compensation if it had happened in this Commonwealth, the employee or his dependents shall be entitled to compensation, if:

1. The contract of employment was made in this Commonwealth; and
2. The employer's place of business is in this Commonwealth;

provided the contract of employment was not expressly for service exclusively outside of the Commonwealth.

B. However, if an employee shall receive compensation or damages under the laws of any other state, nothing herein contained shall be construed so as to permit a total compensation for the same injury greater than is provided for in this title.

(Code 1950, § 65-58; 1968, c. 660, § 65.1-61; 1976, c. 151; 1991, c. 355.)

48. WASHINGTON

The Revised Code of Washington (RCW) EMPLOYMENTS AND OCCUPATIONS COVERED under section 51.12.120 (WASH. REV. CODE § 51.12.120 (2013)):

Extraterritorial coverage.

(1) If a worker, while working outside the territorial limits of this state, suffers an injury on account of which he or she, or his or her beneficiaries, would have been entitled to compensation under this title had the injury occurred within this state, the worker, or his or her beneficiaries, shall be entitled to compensation under this title if at the time of the injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state for employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state for employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or

(d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of compensation or other recoveries, including settlement proceeds, under the workers' compensation law of another state, territory, province, or foreign nation to a worker or his or her beneficiaries otherwise entitled on account of such injury to compensation under this title shall not be a bar to a claim for compensation under this title if that claim under this title is timely filed. If compensation is paid or awarded under this title, the total amount of compensation or other recoveries, including settlement proceeds, paid or awarded the worker or beneficiary under such other workers' compensation law shall be credited against the compensation due the worker or beneficiary under this title.

(3)(a) An employer not domiciled in this state who is employing workers in this state in work for which the employer must be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, or prequalified under RCW 47.28.070, must secure the payment of compensation under this title by:

(i) Insuring the employer's workers' compensation obligation under this title with the department;

(ii) Being qualified as a self-insurer under this title; or

(iii) For employers domiciled in a state or province of Canada subject to an agreement entered into under subsection (7) of this section, as permitted by the agreement, filing with the department a certificate of coverage issued by the agency that administers the workers' compensation law in the employer's state or province of domicile certifying that the employer has secured the payment of compensation under the other state's or province's workers' compensation law.

(b) The department shall adopt rules to implement this subsection.

(4) If a worker or beneficiary is entitled to compensation under this title by reason of an injury sustained in this state while in the employ of an employer who is domiciled in another state or province of Canada and the employer:

(a) Is not subject to subsection (3) of this section and has neither opened an account with the department nor qualified as a self-insurer under this title, the employer or his or her insurance carrier shall file with the director a certificate issued by the agency that administers the workers' compensation law in the state of the employer's domicile, certifying that the employer has secured the payment of compensation under the workers' compensation law of the other state and that with respect to the injury the worker or beneficiary is entitled to the benefits provided under the other state's law.

(b) Has filed a certificate under subsection (3)(a)(iii) of this section or (a) of this subsection (4):

(i) The filing of the certificate constitutes appointment by the employer or his or her insurance carrier of the director as its agent for acceptance of the service of process in any proceeding brought by any claimant to enforce rights under this title;

(ii) The director shall send to such employer or his or her insurance carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the director by the claimant in any proceeding brought to enforce rights under this title;

(iii) If the employer is a self-insurer under the workers' compensation law of the other state or province of Canada, the employer shall, upon submission of evidence or security, satisfactory to the director, of his or her ability to meet his or her liability to the claimant under this title, be deemed to be a qualified self-insurer under this title; and

(iv) If the employer's liability under the workers' compensation law of the other state or province of Canada is insured:

(A) The employer's carrier, as to such claimant only, shall be deemed to be subject to this title. However, unless the insurer's contract with the employer requires the insurer to pay an amount equivalent to the compensation benefits provided by this title, the insurer's liability for compensation shall not exceed the insurer's liability under the workers' compensation law of the other state or province; and

(B) If the total amount for which the employer's insurer is liable under (b)(iv)(A) of this subsection is less than the total of the compensation to which the claimant is entitled under this title, the director may require the employer to file security satisfactory to the director to secure the payment of compensation under this title.

(c) If subject to subsection (3) of this section, has not complied with subsection (3) of this section or, if not subject to subsection (3) of this section, has neither qualified as a self-insurer nor secured insurance coverage under the workers' compensation law of another state or province of Canada, the claimant shall be paid compensation by the department and the employer shall have the same rights and obligations, and is subject to the same penalties, as other employers subject to this title.

(5) As used in this section:

(a) A person's employment is principally localized in this or another state when: (i) His or her employer has a place of business in this or the other state and he or she regularly works at or from the

place of business; or (ii) if (a)(i) of this subsection is not applicable, he or she is domiciled in and spends a substantial part of his or her working time in the service of his or her employer in this or the other state;

(b) "Workers' compensation law" includes "occupational disease law" for the purposes of this section.

(6) A worker whose duties require him or her to travel regularly in the service of his or her employer in this and one or more other states may agree in writing with his or her employer that his or her employment is principally localized in this or another state, and, unless the other state refuses jurisdiction, the agreement shall govern as to any injury occurring after the effective date of the agreement.

(7) The director is authorized to enter into agreements with the appropriate agencies of other states and provinces of Canada that administer their workers' compensation law with respect to conflicts of jurisdiction and the assumption of jurisdiction in cases where the contract of employment arises in one state or province and the injury occurs in another. If the other state's or province's law requires Washington employers to secure the payment of compensation under the other state's or province's workers' compensation laws for work performed in that state or province, then employers domiciled in that state or province must purchase compensation covering their workers engaged in that work in this state under this state's industrial insurance law. When an agreement under this subsection has been executed and adopted as a rule of the department under chapter 34.05 RCW, it binds all employers and workers subject to this title and the jurisdiction of this title is governed by this rule.

(8) Washington employers who are not self-insured under chapter 51.14 RCW shall obtain workers' compensation coverage from the state fund for temporary and incidental work performed on jobs or at jobsites in another state by their Washington workers. The department is authorized to adopt rules governing premium liability and reporting requirements for hours of work in excess of temporary and incidental as defined in this chapter.

(9) "Temporary and incidental" means work performed by Washington employers on jobs or at jobsites in another state for thirty or fewer consecutive or nonconsecutive full or partial days within a calendar year. Temporary and incidental days are considered on a per state basis.

(10) By December 1, 2011, the department shall report to the workers' compensation advisory committee on the effect of this section on the revenue and costs to the state fund.

[2008 c 88 § 1; 1999 c 394 § 1; 1998 c 279 § 2; 1995 c 199 § 1; 1977 ex.s. c 350 § 23; 1972 ex.s. c 43 § 12; 1971 ex.s. c 289 § 82.]

RCW 51.12.090

Intrastate and interstate commerce.

The provisions of this title shall apply to employers and workers (other than railways and their workers) engaged in intrastate and also in interstate or foreign commerce, for whom a rule of liability or method of compensation now exists under or may hereafter be established by the congress of the United States, only to the extent that the payroll of such workers may and shall be clearly separable and

distinguishable from the payroll of workers engaged in interstate or foreign commerce: PROVIDED, That as to workers whose payroll is not so clearly separable and distinguishable the employer shall in all cases be liable in damages for injuries to the same extent and under the same circumstances as is specified in the case of railroads in the first proviso of RCW 51.12.080: PROVIDED FURTHER, That nothing in this title shall be construed to exclude goods or materials and/or workers brought into this state for the purpose of engaging in work.

Noteworthy is Washington does not reciprocate in construction unless there is a reciprocity agreement in place. Washington has these agreements with Oregon, Idaho, North Dakota, South Dakota, Montana, Wyoming and Nevada.

Washington currently has certain state specific reciprocal agreements with the following states:

- Idaho

RECIPROCITY AGREEMENT BETWEEN IDAHO INDUSTRIAL ACCIDENT BOARD AND WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES IN REGARD TO EXTRATERRITORIAL JURISDICTION

This agreement is made between the industrial accident board of the state of Idaho (herein, for convenience, abbreviated Idaho IAB) and the department of labor and industries of the state of Washington (DOLAI), as administrators of the worker's compensation (WC) laws of their respective states, each of said parties being authorized to enter into reciprocity agreements with other states in matters involving their respective extraterritorial jurisdictional powers and duties.

PREMISES:

1. Employers in each state on occasion find it necessary or expedient to have their workers perform services in the other state. The parties are desirous of entering into an agreement whereby the employers and workers of each of the respective states may continue to be entitled to the protection and benefits provided by the WC laws of their respective home states.

DEFINITIONS:

2. For the purposes of this agreement: Person whose employment is "principally localized" in Idaho shall be deemed to be an Idaho worker. A person's employment is "principally localized" in Idaho when:

(1) His/her employer has a place of business in Idaho and he/she regularly works (or it is contemplated that he/she shall regularly work) at or from such place of business; or

(2) If clause (1) foregoing is not applicable, he/she is domiciled and spends a substantial part of his/her working time in the service of his/her employer in Idaho.

A person whose employment is "principally localized" in Washington shall be deemed to be a Washington worker. A person's employment is "principally localized" in Washington when:

(1) His/her employer has a place of business in Washington and he/she regularly works (or it is contemplated that he/she shall regularly work) at or from such place of business; or

(2) If clause (1) foregoing is not applicable, he/she is domiciled and spends a substantial part of his/her working time in the service of his/her employer in Washington.

An employee whose duties require him/her to travel regularly in the service of his/her employer in more than one state may, by written agreement with his/her employer, designate the state in which his/her employment shall be "principally localized." Unless the state so designated refuses jurisdiction, such agreement shall be given effect under the instant agreement.

In cases where none of the foregoing tests can be made to apply, the person shall be deemed to be a worker of whichever jurisdiction in which his/her contract of hire was made.

3. This agreement shall not apply to Washington workers of an Idaho employer working in the state of Washington, nor to Idaho workers of a Washington employer working in the state of Idaho: Provided, however, That the right and remedies of both Idaho and Washington workers engaged in the construction and maintenance of interstate structures such as dams, bridges, trestles and similar structures between the two states, may be regulated by specific separate reciprocity agreements.

THE PARTIES AGREE:

4. The Idaho IAB in keeping with the provision of the Idaho WC law will assume and exercise extraterritorial jurisdiction of compensation claims on any Idaho worker injured in the state of Washington and of his/her dependents upon any Idaho employer under its jurisdiction and the latter's surety or insurance carrier.

5. The Washington DOLAI in keeping with the provisions of the Washington WC law will provide protection of any Washington employer under its jurisdiction and benefits to any Washington worker injured in the course of his/her employment while working in the state of Idaho.

6. A Washington employer while performing work in the state of Idaho shall be subject to the safety codes of the state of Idaho, and an Idaho employer working in the state of Washington shall be subject to the safety codes of the state of Washington.

7. Employers' premium payments on the out-of-state earnings of Idaho workers shall be due and payable to the respective employers' insurance carriers and premium payments of the out-of-state earnings of Washington workers shall be made to the Washington DOLAI.

8. For the purpose of implementing the terms of the agreement, the parties agreed upon the following procedures:

The Idaho IAB will upon request and on behalf of an Idaho employer issue a certificate of extraterritorial coverage to the Washington DOLAI and the latter upon request and on behalf of a Washington employer will issue a certificate of extraterritorial coverage to the Idaho IAB. Such certificates may be canceled or

revoked at the discretion of the issuing agency. Due notice of issuance, modification and cancellation of any such certificate shall be given to the employer and to his/her insurance carrier, if any.

9. This agreement shall be effective January 1, 1971, and shall remain in full force and effect until superseded or modified by the parties hereto.

- Montana

THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES AND THE DEPARTMENT OF LABOR OF THE STATE OF MONTANA, DESIRING TO RESOLVE JURISDICTIONAL ISSUES THAT ARISE WHEN WORKERS FROM ONE STATE TEMPORARILY WORK IN ANOTHER, ENTER INTO THE FOLLOWING AGREEMENT:

This agreement affects the rights of workers and their employers when the contract of employment arises in one state and the worker is temporarily working in the other. To be covered by this agreement, an employer must be considered an employer under both Washington's and Montana's workers' compensation laws, and workers must be considered workers under both Washington's and Montana's workers' compensation laws

BASIC RULE:

When a worker's contract of hire arises in one state and the worker is temporarily working in the other state:

Employers are required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contracts of employment arose in, and pay premiums if not self-insured for the work performed while in the other state; and

Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state are payable under the workers' compensation law of the state the contract of employment arose in, and that state's workers' compensation law provides the exclusive remedy available to the injured worker.

Any Washington employer while performing work in the state of Montana will be subject to the safety codes of the state of Montana. Any Montana employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington.

Washington and Montana both agree to notify the other state in writing of any changes to their law that may affect this agreement within thirty days of that law change.

EXCLUSIONS FROM THE BASIC RULE:

This agreement does not apply to Washington workers of Montana employers while working in the state of Washington nor to Montana workers of Washington employers while working in the state of Montana.

Washington employers engaged in the construction industry as defined in Section 39-71-116 MCA and working in Montana must obtain coverage for workers so employed in Montana under the provisions of Montana's Workers' Compensation Act.

Montana employers engaged in the construction industry and working in Washington must obtain coverage for workers so employed in Washington under the provisions of Washington's Industrial Insurance Act.

CERTIFICATES OF COVERAGE:

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

AGREEMENT:

This agreement retroactively supersedes the previous agreement between Washington and Montana in effect July 1, 1968. This agreement is effective November 1, 2000, and will remain in effect unless terminated, modified, or amended in writing between the parties. Either party may terminate the agreement, without cause, by giving written notice to the other party at least thirty days in advance of such termination.

This agreement creates no rights or remedies, causes of action, or claims on behalf of any third person or entity against Washington or Montana and is executed expressly and solely for the purpose of coordinating issues of workers' compensation coverage between the states.

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

- Nevada

RECIPROCITY AGREEMENT BETWEEN THE DEPARTMENT OF LABOR AND INDUSTRIES OF THE STATE OF WASHINGTON AND THE NEVADA INDUSTRIAL COMMISSIONS OF THE STATE OF NEVADA REGARDING EXTRATERRITORIAL RECIPROCITY

WHEREAS, The worker's compensation law of the state of Washington authorizes the director of labor and industries to enter into agreement of reciprocity for worker's compensation purposes with other states; and

WHEREAS, The worker's compensation law of the state of Nevada authorizes the Nevada industrial commission to enter into agreements of reciprocity for worker's compensation purposes with other states; and

WHEREAS, Employers who conduct operations in the state of Washington are required on occasion to have Washington workers perform services in the state of Nevada; and

WHEREAS, Employers who conduct operations in the state of Nevada are required on occasion to have Nevada workers perform services in the state of Washington; and

WHEREAS, The department of labor and industries of the state of Washington and the Nevada industrial commission of the state of Nevada are desirous of entering into an agreement whereby the employers and workers of each of the respective states may continue to be entitled to the protection and benefits provided by the worker's compensation laws of their respective home state.

IT IS HEREBY AGREED That for the purpose of this agreement of reciprocity, a Washington worker is a person hired to work in the state of Washington, and a Nevada worker is a person hired to work in the state of Nevada.

IT IS FURTHER AGREED BETWEEN The department of labor and industries of the state of Washington and the Nevada industrial commission of the state of Nevada.

That the department of labor and industries of the state of Washington in keeping with the provisions of the Washington worker's compensation law will provide protection for any Washington employer under its jurisdiction and benefits to any of the Washington workers who may be injured in the course of employment while working temporarily in the state of Nevada. In the event of an injury to one of these workers, his/her exclusive remedy would be that provided by the worker's compensation law of the state of Washington.

That the Nevada industrial commission of the state of Nevada in keeping with the provisions of the Nevada worker's compensation law will provide protection for any Nevada employer under its jurisdiction, and benefits to any of its workers who may be injured in the course of employment while working temporarily in the state of Washington. In the event of injury to one of these workers, his/her exclusive remedy would be that provided by the worker's compensation law of the state of Nevada.

That the department of labor and industries of the state of Washington will upon request and on behalf of the Washington employer issue a certificate of extraterritorial coverage to the Nevada industrial commission of the state of Nevada, and that the Nevada industrial commission of the state of Nevada will upon request and on behalf of the Nevada employer issue a certificate of extraterritorial coverage to the department of labor and industries of the state of Washington.

That these certificates of extraterritorial coverage shall be issued and/or canceled at the discretion of the Washington department of labor and industries or the Nevada industrial commission.

That the Nevada employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington, and that the Washington employer while performing work in the state of Nevada will be subject to the safety codes of the state of Nevada.

IT IS MUTUALLY UNDERSTOOD, That this agreement will not apply to Nevada workers of the Washington employer working in the state of Nevada, nor to the Washington workers of the Nevada employer working in the state of Washington.

IT IS ALSO MUTUALLY UNDERSTOOD, That premium payments on the out-of-state earnings of Washington workers will be made to the Washington department of labor and industries, and that premium payments on the out-of-state earnings of Nevada workers will be made to the Nevada industrial commission of the state of Nevada.

IT IS FURTHER AGREED That this statement of extraterritorial reciprocity shall be effective April 1, 1970, and further that this agreement shall remain in full force and effect until superseded or modified by the parties to this agreement.

- NORTH DAKOTA

THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES AND THE NORTH DAKOTA WORKERS COMPENSATION, DESIRING TO RESOLVE JURISDICTIONAL ISSUES THAT ARISE WHEN WORKERS FROM ONE STATE TEMPORARILY WORK IN ANOTHER, ENTER INTO THE FOLLOWING AGREEMENT:

This agreement affects the rights of workers and their employers when the contract of employment arises in one state and the worker is temporarily working in the other. To be covered by this agreement, an employer must be considered an employer under both Washington's and North Dakota's workers' compensation laws, and workers must be considered workers under both Washington's and North Dakota's workers' compensation laws.

BASIC RULE:

When a worker's contract of hire arises in one state and the worker is temporarily working in the other state:

Employers are required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contracts of employment arose in, and pay premiums if not self-insured for the work performed while in the other state; and

Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state are payable under the workers' compensation law of the state the contract of employment arose in, and that state's workers' compensation law provides the exclusive remedy available to the injured worker.

Any Washington employer while performing work in the state of North Dakota will be subject to the safety codes of the state of North Dakota. Any North Dakota employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington.

EXCLUSION FROM THE BASIC RULE:

This agreement does not apply to Washington workers of North Dakota employers while working in the state of Washington or to North Dakota workers of Washington employers while working in the state of North Dakota.

CERTIFICATES OF COVERAGE:

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

AGREEMENT:

This agreement is effective March 1, 2001, and will remain in effect unless terminated, modified, or amended in writing between the parties. Either party may terminate the agreement, without cause, by giving written notice to the other party at least thirty days in advance of such termination.

This agreement creates no rights or remedies, causes of action, or claims on behalf of any third person or entity against Washington or North Dakota, and is executed expressly and solely for the purpose of coordinating issues of workers' compensation coverage between the states.

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

- Oregon

THE STATE OF WASHINGTON, ACTING BY AND THROUGH THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES AND THE STATE OF OREGON, ACTING BY AND THROUGH ITS DEPARTMENT OF CONSUMER AND BUSINESS SERVICES, DESIRING TO RESOLVE JURISDICTIONAL ISSUES THAT ARISE WHEN WORKERS FROM ONE STATE TEMPORARILY WORK IN ANOTHER, ENTER INTO THE FOLLOWING AGREEMENT (THE "AGREEMENT"):

This agreement affects the rights of workers and their employers when the contract of employment arises in Washington and the worker is temporarily working in Oregon, or when the contract of employment arises in Oregon and the worker is temporarily working in Washington. To be covered by this agreement, an employer must be considered an employer under both Washington's and Oregon's workers' compensation laws, and workers must be considered workers under both Washington's and Oregon's workers' compensation laws.

BASIC RULE:

When a contract of employment arises in Washington and the worker is temporarily working in Oregon or when the contract of employment arises in Oregon and the worker is temporarily working in Washington:

Employers shall be required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contract of employment arose in, and pay premiums or be self-insured in that state for the work performed while in the other state; and

Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state shall be payable under the workers' compensation law of the state the contract of employment arose in, and that state's workers' compensation law provides the exclusive remedy available to the injured worker.

In determining whether a worker is temporarily working in another state, Washington and Oregon agree to consider:

1. The extent to which the worker's work within the state is of a temporary duration;
 2. The intent of the employer in regard to the worker's employment status;
 3. The understanding of the worker in regard to the employment status with the employer;
 4. The permanent location of the employer and its permanent facilities;
 5. The extent to which the employer's contract in the state is of a temporary duration, established by a beginning date and expected ending date of the employer's contract;
 6. The circumstances and directives surrounding the worker's work assignment;
 7. The state laws and regulations to which the employer is otherwise subject;
 8. The residence of the worker; and
 9. Other information relevant to the determination.
- Washington and Oregon both agree to notify the other state of any changes to their law that may affect this agreement within thirty days of that law change.
 - Any Washington employer while performing work in the state of Oregon will be subject to the safety codes of the state of Oregon. Any Oregon employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington.

EXCLUSION FROM THE BASIC RULE:

This agreement does not apply to any Washington worker of an Oregon employer while working in the state of Washington nor to any Oregon worker of a Washington employer while working in the state of Oregon. It is understood that an employer from either Oregon or Washington may have a contract in the other state where they may have both Oregon and Washington workers which may require obtaining coverage in both states for that same contract.

This agreement does not apply to employees of an employer working for stevedoring or steamship companies.

This agreement does not supersede separate agreements made regarding workers employed in the construction or maintenance of interstate structures such as dams, bridges, trestles, etc. between Oregon and Washington.

CERTIFICATES OF COVERAGE:

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

MERGER:

This agreement replaces and supersedes the previous agreement on the same subject matter entered into between Washington and Oregon in effect since October 5, 1997.

EFFECTIVE DATE:

This agreement shall take effect immediately upon completion of all of the following requirements:

- (1) Execution by both parties;
- (2) Public notification in compliance with Oregon law; and
- (3) Adoption as a rule in compliance with Washington law.

This agreement will remain in effect unless terminated, modified, amended or replaced in writing between the parties.

TERMINATION:

Either party may terminate the agreement, without cause, by giving written notice to the other party at least thirty days in advance of such termination.

NOTICE:

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

- SOUTH DAKOTA

THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES AND THE SOUTH DAKOTA DEPARTMENT OF LABOR, DESIRING TO RESOLVE JURISDICTIONAL ISSUES THAT ARISE WHEN WORKERS FROM ONE STATE TEMPORARILY WORK IN ANOTHER, ENTER INTO THE FOLLOWING AGREEMENT:

This agreement affects the rights of workers and their employers when the contract of employment arises in one state and the worker is temporarily working in the other. To be covered by this agreement, an employer must be considered an employer under both Washington's and South Dakota's workers'

compensation laws, and workers must be considered workers under both Washington's and South Dakota's workers' compensation laws.

BASIC RULE:

When a worker's contract of hire arises in one state and the worker is temporarily working in the other state:

Employers are required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contracts of employment arose in, and pay premiums if not self-insured for the work performed while in the other state; and

Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state are payable under the workers' compensation law of the state the contract of employment arose in, and that state's workers' compensation law provides the exclusive remedy available to the injured worker.

Any Washington employer while performing work in the state of South Dakota will be subject to the safety codes of the state of South Dakota. Any South Dakota employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington.

EXCLUSION FROM THE BASIC RULE:

This agreement does not apply to Washington workers of South Dakota employers while working in the state of Washington or to South Dakota workers of Washington employers while working in the state of South Dakota.

CERTIFICATES OF COVERAGE:

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

AGREEMENT:

This agreement is effective March 1, 2001 and will remain in effect unless terminated, modified, or amended in writing between the parties. Either party may terminate the agreement, without cause, by giving written notice to the other party at least thirty days in advance of such termination.

This agreement creates no rights or remedies, causes of action, or claims on behalf of any third person or entity against Washington or South Dakota, and is executed expressly and solely for the purpose of coordinating issues of workers' compensation coverage between the states.

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

- Utah

THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES AND THE UTAH LABOR COMMISSION, DESIRING TO RESOLVE JURISDICTIONAL ISSUES THAT ARISE WHEN WORKERS FROM ONE STATE TEMPORARILY WORK IN ANOTHER, ENTER INTO THE FOLLOWING AGREEMENT:

This agreement affects the rights of workers and their employers when the contract of employment arises in one state and the worker is temporarily working in the other. To be covered by this agreement, an employer must be considered an employer under both Washington's and Utah's workers' compensation laws, and workers must be considered workers under both Washington's and Utah's workers' compensation laws.

BASIC RULE:

When a worker's contract of hire arises in one state and the worker is temporarily working in the other state:

Employers are required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contracts of employment arose in, and pay premiums if not self-insured for the work performed while in the other state; and

Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state are payable under the workers' compensation law of the state the contract of employment arose in, and that state's workers' compensation law provides the exclusive remedy available to the injured worker.

Any Washington employer while performing work in the state of Utah will be subject to the safety codes of the state of Utah. Any Utah employer while performing work in the state of Washington will be subject to the safety codes of the state of Washington.

Washington and Utah both agree to notify the other state in writing of any changes to their law that may affect this agreement within thirty days of that law change.

EXCLUSION FROM THE BASIC RULE:

This agreement does not apply to Washington workers of Utah employers while working in the state of Washington nor to Utah workers of Washington employers while working in the state of Utah.

CERTIFICATES OF COVERAGE:

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

AGREEMENT:

This agreement is effective March 1, 2001, and will remain in effect unless terminated, modified, or amended in writing between the parties. Either party may terminate the agreement, without cause, by giving written notice to the other party at least thirty days in advance of such termination.

This agreement creates no rights or remedies, causes of action, or claims on behalf of any third person or entity against Washington or Utah and is executed expressly and solely for the purpose of coordinating issues of workers' compensation coverage between the states.

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

- Wyoming

AGREEMENT BETWEEN THE DEPARTMENT OF LABOR AND INDUSTRIES OF THE STATE OF WASHINGTON AND THE WORKMEN'S COMPENSATION DEPARTMENT OF THE STATE OF WYOMING REGARDING EXTRATERRITORIAL RECIPROCITY

WHEREAS, The workmen's compensation law of the state of Washington authorized the director of labor and industries to enter into agreements of reciprocity for workmen's compensation purposes with other states; and

WHEREAS, The workmen's compensation law of the state of Wyoming authorizes the workmen's compensation department to enter into agreements of reciprocity for workmen's compensation purposes with other states; and

WHEREAS, Employers who conduct operations in the state of Washington are required on occasion to have Washington-hired workers perform services in the state of Wyoming; and

WHEREAS, Employers who conduct operations in the state of Wyoming are required on occasion to have Wyoming-hired workers perform services in the state of Washington; and

WHEREAS, The department of labor and industries of the state of Washington and the workmen's compensation department of the state of Wyoming are desirous of entering into an agreement whereby the employers and workers of each of the respective states may continue to be entitled to the protection and benefits provided by the workmen's compensation laws of their respective home states.

IT IS HEREBY AGREED BETWEEN The department of labor and industries of the state of Washington and the workmen's compensation department of the state of Wyoming:

That the department of labor and industries of the state of Washington in keeping with the provisions of the Washington workmen's compensation law will provide protection for any Washington employer under its jurisdiction and benefits to any of his/her workers who may be hired in the state of Washington and injured in the course of employment while working temporarily in the state of

Wyoming. In the event of injury to one of these workers, his/her exclusive remedy would be that provided by the workmen's compensation law of the state of Washington.

That the workmen's compensation department of the state of Wyoming in keeping with the provision of the Wyoming workmen's compensation law will provide protection for any Wyoming employer under its jurisdiction, and benefits to any of his/her workers who may be hired in the state of Wyoming and injured in the course of employment while working temporarily in the state of Washington. In the event of injury to one of these workers, his/her exclusive remedy would be that provided by the workmen's compensation law of the state of Wyoming.

That for the purpose of this agreement "temporary" shall mean a period not to exceed six months.

That the department of labor and industries of the state of Washington will, upon request and on behalf of the Washington employer, issue a certificate of extraterritorial coverage to the workmen's compensation department of the state of Wyoming, and that the workmen's compensation department of the state of Wyoming will, upon request and on behalf of the Wyoming employers, issue a certificate of extraterritorial coverage to the department of labor and industries of the state of Washington.

That these certificates of extraterritorial coverage shall be issued for a maximum period of six months subject to renewal upon request by the affected employers and at the discretion of the Washington department of labor and industries, or the Wyoming workmen's compensation department.

That the Wyoming employer and his/her workers while performing work in the state of Washington under this agreement will be subject to the safety codes of the state of Washington, and that the Washington employer and his/her workers while performing work in the state of Wyoming under this agreement will be subject to the safety codes of the state of Wyoming.

IT IS MUTUALLY UNDERSTOOD That this agreement will not apply to workers of the Washington employer who may be hired in the state of Wyoming, nor to the workers of the Wyoming employer who may be hired in the state of Washington.

IT IS ALSO MUTUALLY UNDERSTOOD That premium payments on the out-of-state earnings of Washington-hired workers will be made to the Washington department of labor and industries, and that premium payments on the out-of-state earning of Wyoming-hired workers will be made to the workmen's compensation department of the state of Wyoming.

IT IS FURTHER AGREED That this agreement of extraterritorial reciprocity shall become effective on July 15, 1963, and shall remain in full force and effect until superseded or modified by the parties to this agreement.

[Statutory Authority: RCW 51.04.020 and 51.16.035. WSR 04-18-025, § 296-17-31009, filed 8/24/04, effective 10/1/04. Statutory Authority: RCW 51.04.020, 51.16.035, and 51.12.120. WSR 03-23-025, § 296-17-31009, filed 11/12/03, effective 1/1/04. Statutory Authority: RCW 51.16.035. WSR 98-18-042, § 296-17-31009, filed 8/28/98, effective 10/1/98.] (see <http://apps.leg.wa.gov/wac/default.aspx?cite=296-17-31009>)

WISCONSIN

Generally, in order to be subject to Wisconsin law, the state requires immediate coverage for 3 or more employees which includes temporary employees. However, if the out-of state employer had only 1 or 2 employees, the employer may not be required to obtain Wisconsin coverage for up to 3 months. (See Linda Repp, *Extraterritorial reciprocity information for all 50 states*)

Wisconsin Workers' Compensation law states under section 102.03 "Conditions of liability" (Wis. STAT. § 102.03):

(5) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of the employee's death, his or her dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of the employee's death resulting from such injury, the dependents of the employee, shall be entitled to the benefits provided by this chapter, if at the time of such injury any of the following applies:

(a) His or her employment is principally localized in this state.

(b) He or she is working under a contract of hire made in this state in employment not principally localized in any state.

(c) He or she is working under a contract made in this state in employment principally localized in another state whose worker's compensation law is not applicable to that person's employer.

(d) He or she is working under a contract of hire made in this state for employment outside the United States.

(e) He or she is a Wisconsin law enforcement officer acting under an agreement authorized under s. 175.46.

Worker's Compensation Insurance Requirements in Wisconsin

Out-of-State Employer Requirements

Out-of-state employers with employees working in Wisconsin must have a worker's compensation policy with an insurance company licensed to write worker's compensation insurance in Wisconsin.

The policy must be endorsed to name Wisconsin as a covered state in section 3-A of the policy. If an out-of-state employer has a worker's compensation insurance policy with an insurance company licensed to write worker's compensation insurance in Wisconsin, they may simply add Wisconsin coverage by name to section 3-A of the policy by endorsement.

If an out-of-state employer has a worker's compensation insurance policy with an insurance company not licensed to write in Wisconsin, they must obtain a policy from a Wisconsin licensed insurance

company to cover their Wisconsin exposure. The insurance company must file the properly endorsed policy with the Wisconsin Compensation Rating Bureau.

49. WEST VIRGINIA

CHAPTER 23. WORKERS' COMPENSATION; ARTICLE 2. EMPLOYERS AND EMPLOYEES SUBJECT TO CHAPTER; EXTRATERRITORIAL COVERAGE. (see also TITLE 85 entitled "EXEMPT LEGISLATIVE RULE WORKERS' COMPENSATION RULES OF THE WEST VIRGINIA INSURANCE COMMISSIONER"; SERIES 8 entitled "WORKERS' COMPENSATION POLICIES, COVERAGE ISSUES AND RELATED TOPICS") (W.VA. CODE § 23-2-1c (2013)):

§23-2-1c. Extraterritorial coverage; approval and change of agreements.

- (a) Whenever, with respect to an employee of an employer who is a subscriber in good standing to the workers' compensation fund or an employer who has elected to pay compensation directly, as provided in section nine of this article, there is a possibility of conflict with respect to the application of workers' compensation laws because the contract of employment is entered into and all or some portion of the work is performed or is to be performed in a state or states other than this state, the employer and the employee may agree to be bound by the laws of this state or by the laws of any other state in which all or some portion of the work of the employee is to be performed: Provided, That the executive director may review and accept or reject the agreement. The review shall be conducted in keeping with the executive director's fiduciary obligations to the workers' compensation fund which may include, among other things, the nexus of the employer and the employee to the state: Provided, however, That nothing in this section shall be construed as to require an agreement in those instances where subdivision (3), subsection (b), section one of this article or subdivision (1), subsection (a), section one-a of this article are applicable. All agreements shall be in writing and filed with the executive director within ten days after execution of the agreement but shall not become effective until approved by the executive director and shall, thereafter, remain in effect until terminated or modified by agreement of the parties similarly filed or by order of the executive director. If the parties agree to be bound by the laws of this state, an employee injured within the terms and provisions of this chapter is entitled to benefits under this chapter regardless of the situs of the injury or exposure to occupational pneumoconiosis or other occupational disease, and the rights of the employee and his or her dependents under the laws of this state shall be the exclusive remedy against the employer on account of injury, disease or death in the course of and as a result of the employment. (b) If the parties agree to be bound by the laws of another state and the employer has complied with the laws of that state, the rights of the employee and his or her dependents under the laws of that state shall be the exclusive remedy against the employer on account of injury, disease or death in the course of and as a result of the employment without regard to the situs of the injury or exposure to occupational pneumoconiosis or other occupational disease.
- (b) If the employee is a resident of a state other than this state and is subject to the terms and provisions of the workers' compensation law or similar laws of a state other than this state, the employee and his or her dependents are not entitled to the benefits payable under this chapter on account of injury, disease or death in the course of and as a result of employment temporarily

within this state, and the rights of the employee and his or her dependents under the laws of the other state shall be the exclusive remedy against the employer on account of any injury, disease or death.

- (c) If any employee or his or her dependents are awarded workers' compensation benefits or recover damages from the employer under the laws of another state for an injury received in the course of and resulting from the employment, the amount awarded or recovered, whether paid or to be paid in future installments, shall be credited against the amount of any benefits payable under this chapter for the same injury.

50. WYOMING

Wyoming Title 27 entitled "Labor and Employment", chapter 14 entitled "Workers' Compensation" - Wyoming Worker's Compensation Act - provides the following (WYO. STAT. ANN. § 27-14-204):

27-14-204. Coverage of out-of-state injuries; filing.

(a) Repealed By Laws 1997, ch. 177, 2.

(b) The payment or award of benefits under the worker's compensation law of another state to an employee or his dependents otherwise entitled on account of the injury or death to the benefits of this act is not a bar to a claim for benefits under this act if a claim under this act is filed within the time limits set forth in W.S. 27-14-503. If compensation is paid or awarded under this act, the total amounts of medical and related income and death benefits paid or awarded under another worker's compensation law shall be credited against the total corresponding medical and related income and death benefits due under this act.

(c) Repealed by Laws 1989, ch. 29, 1, 2.

(d) Any employee injured outside of the state of Wyoming and coming under the provisions of this section shall file his application for compensation with the division.