

Significant laws passed in 2019 affecting workers' compensation

House Bill 2087 (Relating to civil penalties)

HB 2087 affects the division's civil penalty law, primarily used to address claims processing and benefit payment performance. This law has a statutory cap that was set in the 1970s. The bill changes the penalty cap to a calendar-year basis, instead of a three-month rolling period. It also separates the civil penalties into three distinct categories, each with separate caps. Lastly, it increases the maximum penalty amounts for insurers, self-insured employers, and service companies that fail to pay assessments or comply with the law from \$2,000 to \$4,000 per violation and up to \$180,000 per year.

Effective: Jan. 1, 2020.

House Bill 2788 (Workers' Benefit Fund minimum balance)

HB 2788 increases the required balance for the Workers' Benefit Fund from six to 12 months of projected expenditures. The Workers' Compensation Management-Labor Advisory Committee (MLAC) recommended this change after conducting a study of the fund balance requirement. If the fund is projected to fall below the 12-month balance, the department must prepare a plan to address the situation and present the plan to MLAC for discussion.

Effective: Jan. 1, 2020.

House Bill 3003 (Self-insured employer security deposit)

HB 3003 modifies the security deposit requirement for employers who self-insure for workers' compensation purposes. Under the current law, when an employer stops being self-insured, its security remains on deposit for at least 62 months to secure any remaining liability from the period of self-insurance. At the end of this period, the director may accept a paid-up insurance policy covering the employer's self-insurance liability in lieu of any remaining security. House Bill 3003 allows the director to accept a paid-up policy in lieu of a former self-insured employer's security before the end of the 62-month period. The bill allows the director to adopt rules as necessary to implement the provisions of the bill.

Effective: Jan. 1, 2020.

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Senate Bill 507 (Occupational disease presumption for public safety workers)
SB 507 creates a presumption for certain public safety workers that posttraumatic stress disorder (PTSD) and acute stress disorder are compensable occupational disease claims. For the presumption to apply, the worker must establish, through a preponderance of persuasive medical evidence from a psychiatrist or psychologist, that the worker more likely than not satisfies the diagnostic criteria for the condition. To use the presumption, the worker must have been employed at least five years or experience a single traumatic event for PTSD. The presumption is no longer available seven years after a worker is no longer employed. Employers can refute the presumption with clear and convincing medical evidence that duties as a covered employee were not of real importance or great consequence in causing the diagnosed condition. Employers can later deny compensability of the claim in specified circumstances.

Effective: Claims filed on or after Sep. 29, 2019.