

## **History**

Before these laws were enacted, a well-established common law principle held that a master or employer was responsible for the injury or death of employees resulting from a negligent act by the master or employer. Thus, disabled workers who sued employers for damages had to prove that their injuries were due to employer negligence. This was often a very slow, costly, and uncertain legal process. As business enterprise and machine production expanded, the number of industrial accidents and personal injury suits increased. By the close of the 19th century, it became apparent that a new system – one that was legally-based, economically-sound, and socially-acceptable – had to be developed.

In 1911, the first workers' compensation laws were enacted in the United States on an enduring basis. Workers' compensation laws held that the employers should assume the costs of occupational disabilities without regard to the fault involved. Resulting economic losses are considered costs of production, chargeable, to the extent possible, as a price factor. The laws serve to relieve employers of liability from common law suits involving negligence in exchange for becoming responsible for medical costs and lost wages of on-the-job injuries regardless of fault.

### **Objectives**

historically, six basic objectives underlie the workers' compensation laws:

Provide sure, prompt, and reasonable income and medical benefits to work-related accident victims, or income benefits to their dependents, regardless of fault;

Provide a single remedy and reduce court delays, costs, and judicial workloads arising out of personal injury litigation;

Relieve public and private charities of financial demands incident to uncompensated occupational accidents;

Minimize payment of fees to lawyers and witnesses as well as time-consuming trials and court appeals;

Encourage maximum employer interest in safety and rehabilitation through an appropriate experience-rating mechanism; and,

Promote frank study of the causes of accidents (rather than the concealment of fault) in an effort to reduce preventable accidents and human suffering.

The South Carolina Industrial Commission was created on September 1, 1935, to administer and enforce South Carolina's first workers' compensation law. Throughout the years, the law has been amended by statute, defined by case law, and altered through administrative policies and procedures; however, the basic premise and purpose of the law has remained unaltered. In May 1986, the name of the Industrial Commission was changed to the more descriptive South Carolina Workers' Compensation Commission.

### **Coverage**

Every South Carolina employer and employee, with certain notable exceptions, is presumed to be covered by the State's Workers' Compensation Act. Exceptions to this provision include railroad and railway express companies and employees, certain casual employees, Federal employees in South

Carolina, businesses with less than four employees, agricultural employees, and certain real estate salespersons, and, by election, corporate officers.

Employers covered by the provisions of the Act are required to maintain insurance sufficient for the payment of compensation, or they shall furnish the Commission satisfactory proof of their ability to pay the compensation in the amount and manner due an injured employee. The South Carolina Department of Insurance is responsible for approving rates and classifications for all workers' compensation insurers.

### **Compensation**

An employee may expect compensation for personal injury or death by accident arising out of and in the course of his or her employment. Workers' compensation pays for necessary medical treatment, loss of wages during a period of disability, and compensation for permanent disability or disfigurement. If an employee is injured and unable to work for more than seven days, he or she is eligible to be compensated at the rate of 66 2/3% of the employee's average weekly wage, limited to 100% of the State's average weekly wage as established each year by the South Carolina Employment Security Commission. If the period of total disability exceeds 14 days, the employee is eligible for compensation beginning with the date of the accident.

The maximum award for total disability or death is limited by law to five hundred (500) weeks of compensation. The rate of compensation is determined by the injured employee's average weekly wage and cannot exceed 100% of the state's average weekly wage. The loss of both hands, arms, feet, legs, or vision in both eyes, or a combination of two such losses, constitutes total and permanent disability. In addition, a commissioner can make other disability determinations based on the particular loss or impairment to the whole person.

Amounts of compensation for partial disability or disfigurement are generally established and limited by statute or Commission regulation. Awards are usually made in terms of the number of weeks of compensation to which the employee is entitled based on the extent of the disabling injury.

In South Carolina, the disability or death of an employee resulting from an occupational disease is treated as an injury by accident, and the employee, or in the case of death, the deceased's dependents, may be entitled to compensation. A disease may be recognized as an occupational disease only if it is caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of continuous exposure to normal working conditions. In addition to occupational diseases, injury from harmful exposures to ionizing radiation is also defined for particular attention under the Workers' Compensation Act.

When an employee is injured on the job, he or she should immediately report the accident to the employer, or the employee may jeopardize the payment of medical fees and other compensation he or she may be entitled to under the Act. In no event should the employee wait more than ninety days from the date of the accident to report it to the employer. Claims for compensation must be made within two years after the accident or the date of death. Failure to comply with the timeliness statutes could negate any possible award or other compensation. Once an employer receives notice of an accident or has knowledge about an accident, the employer, or its representative, has ten (10) days in which to report the accident to the Commission. The Commission monitors the payment of medical treatment and compensation provided by the employer or its insurance carrier to the injured worker.

## **Hearings**

An employee may file an application for a hearing before a commissioner if the employer does not report the accident, if the employer denies that the injury was sustained in the course and scope of employment, or if the employee believes that he or she did not receive all of the available benefits. An employee may also file for a hearing if an employer and the injured employee fail to reach an agreement with regard to compensation within 14 days after the employer has knowledge or notice of the accident, or in the event payment is made, if there is a subsequent disagreement over the continuance of any weekly payment.

The decision of the hearing commissioner may be appealed to the Commission for review. A panel of either three or six commissioners, excluding the original hearing commissioner, will consider the appeal. The decision of the appellate panel may be appealed to a Court of Common Pleas and the State Appellate Courts.

## **South Carolina Workers' Compensation Commission**

The Workers' Compensation Commission is responsible for administering the workers' compensation law in South Carolina. The Commission works closely with the Governor, the General Assembly, and the Commission's many constituents to ensure that the workers' compensation system is fair, equitable, and responsive to the needs of the citizens of South Carolina.