

Approved: 2/1/94
Date

MINUTES OF THE SENATE COMMITTEE ON COMMERCE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on January 31, 1994 in Room 123-S of the Capitol.

Members present: Senators Burke, Dowey, Gooch, Harris, Petty, Ranson, Reynolds, Salisbury, Steffes, Vidricksen

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Jim Wilson, Revisor of Statutes
Bob Nugent, Revisor of Statutes
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee: Richard Brock, Administrative Assistant, Kansas Insurance Department
George Gomez, Director, Division of Workers Compensation, Department of Human Resources

Others attending: See attached list

Continuation of report on the implementation of the 1993 Workers Compensation bill

Richard Brock, Administrative Assistant, Kansas Insurance Department, appeared before the Committee and discussed the Insurance Department's implementation of 1993 SB 307. New Section 7 of the bill requires insurers to provide certain workers' compensation educational and informational material in both English and Spanish to their insured. Kansas Insurance Department Bulletin 1993-22, Bulletin 1993-26, Bulletin 1994-2 were distributed to all insurance companies authorized to transact workers' compensation insurance in Kansas see attachment 1. A camera ready copy of an English version of a brochure developed jointly by the Kansas Insurance Department and the Kansas Department of Human Resources, Division of Workers Compensation, was also distributed to the Committee, a copy of which is on file in the Legislative Research Department. The workers compensation information for Kansas employers and employees is also available on diskette. Fraud and abuse provisions will be addressed more fully in revisions which are scheduled for July of each year. An Assistant Attorney General has been assigned to the Director of Workers' Compensation, and the Kansas Insurance Department will be working on the revisions in cooperation with the Assistant Attorney General.

Mr. Brock explained SB 307 also contained provisions requiring the Insurance Commissioner to approve rates for the Workers' Compensation Plan that would encourage a depopulation of the plan. The Insurance Commissioner has approved a surcharge for employers insured in the Workers' Compensation Plan of 12 1/2% if their annual premium is \$2,250 or more. A rating plan based on indemnity claims only has been approved for those whose annual premium is lower than \$2,250. If an employer has no indemnity claims there is no surcharge; one indemnity claim has a 6% surcharge; and with two or more indemnity claims there is a 12 1/2% surcharge.

In conformity with Section 22 of SB 307 the Insurance Department has adopted a regulation that will implement loss cost rates for workers compensation. The regulation will go into effect July 1, 1994. The National Council on Compensation Insurance will file only that portion of the rate necessary to cover losses of claims. The Insurance Company is responsible for filing that portion of the rate that reflects their expenses, profit and contingencies.

Mr. Brock stated that Commissioner Todd will serve as a member of the State Workers Compensation Fund Oversight Committee, and an insurance agent from Manhattan has been designated to serve as the Commissioner's appointee on the Workers Compensation Advisory Committee.

George Gomez, Director, Division of Workers Compensation, Department of Human Resources,

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON COMMERCE, Room 123-S Statehouse, at 8:00 a.m. on January 31, 1994.

informed the Committee February 11 is the tentative date for a meeting of the Oversight Committee. A topic suggested for the Oversight Committee is an overview of the state fund. The Advisory Council met last Friday through a telephone conference. The next meeting of the Advisory Council is set for February 18.

Mr. Gomez stated the Board of Review will conduct hearings on Mondays and Wednesdays, write decisions on Tuesdays and Thursdays, and have case conferences on Fridays. Workers' Compensation Division has taken a 500 case sample from 10,000 active cases which have been sent to insurance carriers requesting base line information. This is done to create a base line of data concerning what the system was like under the old law and how the system is changing under the new law.

Concerning fraud and abuse, the Director appointed an Assistant Attorney General, Susan Stanley, to the Division of Workers Compensation in January. The statutory date for appointment is September 1, 1993.

In regard to vocational rehabilitation, there were fifteen cases two weeks ago under the new act and a clear indication that cases continue to be referred for rehabilitation.

Senator Reynolds moved and Senator Steffes seconded to adopt the minutes of January 26 and January 27, 1994. The motion carried on a voice vote.

The Chairman adjourned the meeting at 9:00 a.m.

The next meeting is scheduled for February 1, 1994.

GUEST LIST

COMMITTEE: SENATE COMMERCE COMMITTEE

DATE: 1/31/94

[illegible]



STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

420 S.W. 9th
Topeka 66612-1678 913-296-3071

1-800-432-2484
Consumer Assistance
Division calls only

RON TODD
Commissioner

Bulletin 1993-22

TO: All Insurance Companies Authorized to Transact
Workers Compensation Insurance in Kansas

FROM: Ron Todd
Commissioner of Insurance

SUBJECT: Senate Bill No. 307

DATE: August 24, 1993

Senate Bill No. 307 was enacted by the 1993 Legislature and New Section 7 of that legislation requires insurers to provide certain workers compensation educational and informational material in both English and Spanish to their insureds.

In response to the new law, I am attaching a camera ready copy of an English version of a brochure developed jointly by the Kansas Insurance Department and the Kansas Department of Human Resources - Division of Workers Compensation. A diskette containing the same information is also available and may be acquired by calling Twila Davidson at (913) 296-7815 or Val Warkentine at (913) 296-2060 without charge. Whichever medium is most convenient to reproduce sufficient copies for your needs may, of course, be used. In addition, the cover page may be modified to include your organization's name and/or logo but the information included in the brochure may not be altered.

As required by the bill and on and after October 1, 1993, this information must accompany every workers compensation insurance policy and any renewal thereof issued or delivered to a Kansas employer. The purpose of the material is to provide Kansas employers and employees full and fair information about their rights and responsibilities under the Workers Compensation Act.

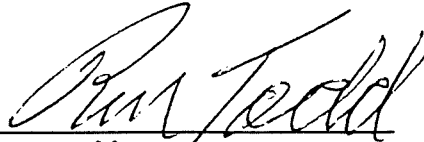
The Division of Workers Compensation is currently translating the brochure's content to Spanish and we will provide you a copy of the Spanish version as soon as possible. You need not and are not to delay distribution of the attached until receipt of its Spanish counterpart, however, because distribution requirements will not be retroactive.

1/31/94
Commerce

Attachment 1-1

August 24, 1993

Please acknowledge receipt of this bulletin and your compliance with New Section 7 of Senate Bill No. 307. Your response is requested no later than September 15, 1993 and is to be directed to the attention of the Fire and Casualty Division of this department.

A handwritten signature in cursive script, reading "Ron Todd", written in black ink.

Ron Todd
Commissioner of Insurance

RT:llfc
Attachment
5263bw



STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

420 S.W. 9th
Topeka 66612-1678 913-296-3071

1-800-432-2484
Consumer Assistance
Division calls only

RON TODD
Commissioner

Bulletin 1993-26

TO: All Insurance Companies and Group-Funded Self-Insurance Plans
Authorized to Transact Workers' Compensation Insurance
in Kansas

FROM: Ron Todd
Commissioner of Insurance

SUBJECT: Senate Bill No. 307
Spanish Language Version of Educational and Informational
Material

DATE: November 1, 1993

An English language version of the workers' compensation educational and informational material required by New Section 7 of Senate Bill No. 307 was transmitted to you with Kansas Insurance Department Bulletin 1993-22 dated August 24, 1993. We are now transmitting a camera ready copy of the Spanish language version of the same material.

As before, a diskette containing the same information is also available and may be acquired without charge by calling Twila Davidson at (913) 296-7815 or Val Warkentine at (913) 296-2060. Whichever medium is most convenient to reproduce sufficient copies to meet your needs may, of course, be used. The cover page may be modified to include your organization's name and/or logo, and the type style of the information may be amended; but, the text and general arrangement of the brochure is not to be altered.

The Spanish version of the educational and informational material required by Kansas law must be available for distribution with every workers' compensation insurance policy and any renewal thereof issued or delivered to a Kansas policyholder on and after January 1, 1994. Each insurance company will be responsible for developing its own procedure for determining how and when the Spanish language version is to be distributed. Companies may distribute both the English and Spanish versions with every policy and renewal, may combine both versions into one publication, or may develop a policyholder response method of distribution such as obtaining a statement of preference from the employer at the time of application as to whether the English, Spanish or both versions are desired.

Please acknowledge receipt of this bulletin and your compliance with new Section 7 of Senate Bill No. 307. Additionally, many carriers have not acknowledged receipt of Bulletin 1993-22. A combined reply to this and the preceding Bulletin is acceptable. Your response is requested no later than December 1, 1993 and is to be directed to the attention of the Fire and Casualty Division of this department.

A handwritten signature in dark ink, appearing to read "Ron Todd", written over a horizontal line.

Ron Todd
Commissioner of Insurance

RT:jbfc
4680jvs

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STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

420 S.W. 9th
Topeka 66612-1678 913-296-3071

1-800-432-2484
Consumer Assistance
Division calls only

RON TODD
Commissioner

Bulletin 1994-2

TO: All Insurance Companies and Group Funded Self-Insurance
Plans Authorized to Transact Workers Compensation
Insurance in Kansas

FROM: Ron Todd
Commissioner of Insurance

SUBJECT: Senate Bill No. 307

DATE: January 7, 1994

Two (2) previous bulletins (1993-22 and 1993-26) were distributed to all insurers and group-funded pools authorized to write workers compensation insurance in Kansas. These bulletins transmitted English and Spanish brochures containing certain workers compensation insurance educational and informational material that is to be disseminated to insured employers as required by New Section 7 of 1993 Senate Bill No. 307.

This bulletin provides, in Spanish and English, information Kansas employers are required to provide injured employees pursuant to New Section 8 of Senate Bill No. 307. The enclosed material was developed by the Division of Workers Compensation within the Kansas Department of Human Resources and any questions regarding the content of such information should be directed to that office.

The attached information is to be immediately distributed to each policyholder or group funded pool member in sufficient quantities to meet their anticipated needs together with a statement that you will continuously provide, upon request, whatever additional quantities are needed. The actual number will, of course, vary depending on the risk classifications of the respective insured employers as well as the number of employees on the payroll. However, at a minimum, the initial, immediate distribution shall consist of at least 2 copies of the attached information. Do not delay this distribution until policy renewals. Immediately upon receiving notice of injury to or death of an employee, the employer, by law, is to mail or deliver the information to the employee or legal beneficiary.

Please acknowledge receipt of this bulletin and your compliance with new Section 8(c) of Senate Bill No. 307. Additionally, many carriers have not acknowledged receipt of Bulletin 1993-22 (English brochure) and/or Bulletin

1993-26 (Spanish brochure). A combined reply to this and the preceding two (2) bulletins is acceptable. Your response is requested no later than February 11, 1994 and is to be directed to the attention of the Fire and Casualty Division of this department.



Ron Todd
Commissioner of Insurance

RT:jbfc
4630bw
Enclosures

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ATTENTION

IMPORTANT INFORMATION FOR INJURED EMPLOYEES

CLAIMS ADVISORY/OMBUDSMAN

DIVISION OF WORKERS COMPENSATION
800 SW JACKSON STREET STE 600
TOPEKA KS 66612-1227

TOLL FREE 1-800-332-0353

If you were hurt on the job and have any questions about Workers Compensation benefits contact the Claims Advisory Section at the Kansas Division of Workers Compensation. The Division of Workers Compensation has full-time personnel who specialize in aiding injured workers with claim information and problems. They can give information about benefits an injured worker is entitled to receive. They can help try to solve problems with benefits not being paid on time, with medical treatment, with unpaid medical bills, with questions about how to figure settlement amounts, etc. Spanish interpreters are available at the Division of Workers Compensation.

WHAT TO DO IF AN ACCIDENT OCCURS ON THE JOB:

1. Tell your employer that you were hurt on the job.
2. Follow your employer's instructions on getting medical aid and follow the doctor's instructions.
3. Within 200 days of the date of accident or the date of last payment of compensation for disability or authorized medical care, tell your employer **in writing** that you expect workers compensation benefits for your injury. Your employer might know you were hurt and compensation may be paid, however, you could lose all rights to future compensation if you do not tell the employer **in writing**. This is called a "**Written Claim**." Written claim may be served in person by taking it to the employer and getting a receipt for it or by mailing it to the employer by certified mail, return receipt requested. The post office receipt for the certified letter is generally sufficient proof that you sent written claim.

AVERAGE WEEKLY WAGE: A worker's "average weekly wage" is calculated by adding together the **base wage**, the **average weekly overtime** and the **weekly value of fringe benefits** that have been discontinued.

WEEKLY BENEFITS: Benefits are paid by the employer's insurance carrier or self-insurance program. Injured workers are not entitled to compensation for the first week they are

off work unless they lose three consecutive weeks. The first compensation payment is normally due at the end of the 14th day of lost time. An injured employee is entitled to a weekly amount of 66 2/3 percent of his average weekly wage up to a maximum of 75 percent of the state's average weekly wage. These benefits are subject to legislative changes. If the injury results in permanent disability, the Kansas compensation law provides for additional benefits.

MEDICAL BENEFITS: An injured worker is entitled to all medical services reasonably necessary to cure and relieve the worker from the effects of the injury. The employer has the right to select the doctor who will treat the injury. A worker may seek the services of an unauthorized doctor up to a limit of \$500. A worker may apply to the Workers Compensation Director to change the authorized treating doctor. Reimbursement for travel to obtain medical treatment is payable at a rate set by law for trips that are five miles or more.

RESPONSIBILITIES OF THE EMPLOYER:

1. Employers must report all employee injuries to the Division of Workers Compensation within 28 days from the date of injury, or the date the employer learned about the injury.
2. Employers must provide for the payment of workers compensation claims without any charge to employees.
3. Employers must post written notice of workers compensation insurance coverage in both Spanish and English.
4. Employers must pay compensation benefits regardless of insurance coverage.
5. Upon receiving notice of an injury, employers must provide the employee with written information to assist the injured worker in obtaining compensation.

EMPLOYERS MUST COMPLETE THE FOLLOWING INFORMATION FOR INJURED WORKERS:

YOUR CLAIM WILL BE HANDLED BY:

Company _____

Address _____

Contact Person _____

Telephone () _____

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A T E N C I Ó N

INFORMACIÓN IMPORTANTE PARA TRABAJADORES LASTIMADOS EN EL TRABAJO

Llame a los: Consultivos de Reclamación/Ombudsman

Llamada Gratis 1-800-332-0353

O Escriba A:
DIVISION OF WORKERS COMPENSATION
800 SW JACKSON STREET, SUITE 600
TOPEKA, KS 66612-1227

Si Ud. se ha lastimado a causa de su trabajo, y tiene algunas preguntas con respecto a los beneficios de la Compensación de Trabajadores, comuníquese con la SECCIÓN DE CONSULTIVOS DE RECLAMACIÓN/"OMBUDSMAN" del Departamento de Compensación Para Trabajadores de Kansas. Este departamento mantiene a su disposición algún personal que especializa en dar asistencia con los problemas de reclamación y en dar información sobre los reclamos, a los trabajadores lastimados a causa del trabajo. Este personal le puede informar sobre los beneficios que un trabajador lastimado tiene derecho a recibir. También pueden asistirle en resolver los problemas con respecto a los beneficios que no se le están pagando a tiempo, al tratamiento médico, a las cuentas de los doctores que aun no se han pagado, y también con preguntas respecto a la cantidad del arreglo de resolución llamado "settlement". Interpretes en Español están a su disposición en el Departamento de Compensación de Trabajadores.

¿QUÉ DEBE HACER SI LE SUCEDE UN ACCIDENTE A CAUSA DEL TRABAJO?

1. Avisele inmediatamente al patrón, o a su empleador, que Ud. se ha lastimado a causa de su trabajo. (DENTRO DE 10 DIAS DEL ACCIDENTE).
2. Siga las instrucciones del patrón, o el empleador, con respecto al tratamiento médico, y siga las instrucciones del doctor médico.
3. Dentro de 200 días del accidente, o del último día en que le pagaron compensación por estar incapacitado, o en que recibió tratamiento médico autorizado, avisele al patrón o al empleador POR ESCRITO que Ud. espera recibir los beneficios de compensación de trabajadores, por su accidente. Aunque su patrón ya se haya informado del accidente, y ya le esté pagando los beneficios, Ud. puede perder el derecho de recibir compensación en el futuro, si no le avisa al patrón o al empleador POR ESCRITO.

PROMEDIO DEL SUELDO SEMANAL: Para calcular un promedio del sueldo semanal "average weekly wage" del trabajador, se suman todos los siguientes: el sueldo básico, más un promedio de las horas extras (overtime) que se trabajan por semana, más el valor semanal de cualquier beneficio adicional que haya sido descontinuado.

BENEFICIOS SEMANALES: Los Beneficios se los paga la compañía o el grupo de Aseguración del Empleador, o el programa propio de Aseguración del Empleador. Los trabajadores que se han lastimado a causa del trabajo, no tienen derecho a recibir compensación por la primera semana en que están sin trabajar a causa del accidente industrial, **A MENOS QUE** estén sin trabajar por orden del doctor. Un trabajador lastimado a causa del trabajo tiene derecho cada semana a una cantidad

equivalente al 66 2/3% por ciento del promedio de su sueldo semanal, hasta llegar a un maximo equivalente al 75% por ciento del promedio de sueldos semanales designado por el Estado de Kansas. Estos beneficios estan expuestos a cualquier cambio que ordene la legislatura del estado. Si el accidente resulta en una incapacidad de modo permanente, la ley de compensación en Kansas le da derecho a otros beneficios adicionales.

BENEFICIOS MEDICOS: Un trabajador lastimado a causa del trabajo tiene derecho a todo servicio medico razonable y necesario para curar y aliviar al trabajador de los efectos del accidente. El patrón, o el empleador, tiene derecho a escoger el doctor autorizado para darle tratamiento medico al trabajador. Aun asi, el trabajador tiene derecho de escoger los servicios de otro doctor que no sea autorizado hasta llegar al limite maximo de \$500.00 dolores. Un trabajador puede pedirle al Director del Departamento de Compensación de Trabajadores que le cambie el doctor autorizado. Tambien tiene derecho de pedir recompensación de la cantidad de gastos de viajes necesarios que haya hecho de mas de cinco (5) millas, para obtener tratamiento medico de un accidente industrial. El porcentaje que se puede recompensar se establece por ley.

RESPONSABILIDADES DEL EMPLEADOR (EL PATRÓN):

1. El empleador debe reportar cada accidente industrial de los trabajadores al Departamento de Compensación de Trabajadores, dentro de 28 dias de la fecha del accidente, o de la fecha en que el empleador se haya dado cuenta del accidente.
2. El empleador debe suministrar el pago de las reclamaciones sin cobrarle a los trabajadores que hacen los reclamos de beneficios.
3. El empleador debe exhibir **AVISOS POR ESCRITO** en Ingles y en Español, avisandoles a los trabajadores del Aseguración de Compensación de Trabajadores que tiene el empleador.
4. El empleador debe pagar los beneficios de compensación aunque no tenga aseguración.
5. En cuanto reciba aviso de un accidente, el empleador o patrón debe proporcionarle al trabajador información escrita, dandole asistencia al trabajador en la reclamación de los beneficios.

LOS EMPLEADORES (EL PATRÓN) DEBEN COMPLETAR LA SIGUIENTE INFORMACIÓN PARA CADA TRABAJADOR LASTIMADO A CAUSA DEL TRABAJO:

ESTA PERSONA NOMBRADA SE ENCARGARA DE SU RECLAMO:

La Compañía Es: _____

El Domicilio Es: _____

Pongase En Contacto Con Esta Persona: _____

Llame a Este Telefono: _____ () _____

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