



Workers' Compensation Insight

Workers' Compensation News & Case Law

March 17, 2015

Quick Facts:

- Federal OSHA has officially rejected **Arizona's** state-specific residential fall protection standards.
- The **California** Assembly will be considering a bill aimed to ensure that women do not get their workers' compensation reduced for pre-existing conditions that are female-related.
- **California** Uber and Lyft drivers, in two separate District Court lawsuits, are challenging their respective company's classification of them as independent contractors.
- **Connecticut's** state senate will be debating two bills that seek to expand Connecticut's workers' compensation law to cover employees who suffer severe mental or emotional distress after witnessing extreme workplace violence.
- In response to the number of on-the-job injuries and deaths due to the amount of snow that has fallen in the past few months, the **Massachusetts** Department of Labor Standards has issued a bulletin on snow removal safety standards.
- The **Oklahoma** Supreme Court will be reviewing a constitutional challenge to the Oklahoma Employee Injury Benefit Act.
- An **Oregon** bakery has been fined \$28,125 for willful safety violations by the Oregon Occupational Safety and Health Division.
- A **Pennsylvania** man has been sentenced to three months imprisonment followed by two years' supervised release and was ordered to pay back \$23,792 in workers' compensation benefits he fraudulently obtained.
- A **Texas** District Court reiterated what qualifies as "reasonable accommodations" as well as the purpose of such.
- A **Washington** man has been charged with 12 felony counts for allegedly obtaining controlled substances and prescription drugs by faking a workers' compensation injury.



Leading Causes of Workplace Injuries

The top five leading causes of workplace injuries in 2012 were: overexertion, falls on the same level, struck by objects, falls to a lower level, and other exertions or bodily reactions. The top cause (overexertion) includes injuries due to lifting, pushing, pulling, holding, carrying, or throwing and cost employers approximately \$15.1 billion.

<http://www.tirebusiness.com/article/20150202/ISSUE/302029985/workers-comp-costs-traced-to-5-injury-types>

Arizona

Federal OSHA has officially rejected Arizona's state-specific residential fall protection standards. As such, Arizona employers must comply with the federal residential fall protection standards found here:

https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=10757&p_table=STANDARDS.
<http://www.workerscompensation.com/compnewsnetwork/news/20684-federal-osha-rejects-arizona-s-residential-fall-protection-standards.html>

California

The California Assembly will be considering a bill aimed to ensure that women do not get their workers' compensation reduced for pre-existing conditions that are female-related. Examples of such conditions are: pregnancy, breast cancer, and osteoporosis.

<http://www.sfgate.com/politics/article/Gender-bias-rampant-in-workers-comp-cases-6113269.php>

Uber and Lyft drivers, in two separate District Court lawsuits, are challenging their respective company's classification of them as independent contractors. The drivers are claiming that they are in fact employees and should be entitled to workers' compensation and other wage law benefits. These cases have been pending since 2013 and the final rulings have not come down yet.

<http://www.businessinsurance.com/article/20150215/NEWS08/302159993/uber-lyft-could-be-forced-to-provide-drivers-with-workers-comp?tags=%7C69%7C92%7C304>

Connecticut

Connecticut's state senate will be debating two bills that seek to expand Connecticut's workers' compensation law to cover employee who suffer severe mental or emotional distress after witnessing extreme workplace violence.

http://www.ctnewsjunkie.com/archives/entry/lawmakers_mull_expanding_workers_comp_to_cover_mental_impairment/



Oregon

An Oregon bakery has been fined \$28,125 for willful safety violations by the Oregon Occupational Safety and Health Division. During an October 2014 inspection, a worker was observed clearing a jam in a dough cutting machine by reaching into the machine without turning it off. Oregon OSHA found a history of similar accidents and a history of the bakery ignoring safety rules related to these accidents. <http://www.workerscompensation.com/compnewsnetwork/news/20856-oregon-osh-cites-portland-bakery-for-willful-safety-violations.html>

Massachusetts

In response to the number of on-the-job injuries and deaths due to the amount of snow that has fallen in the past few months, the Massachusetts Department of Labor Standards has issued a bulletin on snow removal safety standards: <http://www.mass.gov/lwd/labor-standards/dls/snow-removal-flyer.pdf>. Employers must ensure that these standards are followed when an employee clears snow.

Texas- Federal Court

A Texas District Court reiterated what qualifies as “reasonable accommodations” as well as the purpose of such. The Court found that it was unreasonable to require an employer to reassign or hire employees to perform the essential duties of an injured worker, to relieve the injured worker of essential job functions, or to create a new job for the injured worker. The Court restated that the purpose of reasonable accommodations is to allow the injured worker to perform the job. <http://www.workerscompensation.com/compnewsnetwork/workers-comp-blogwire/20679-federal-court-holds-that-employer-does-not-have-to-remove-essential-job-functions-as-a-reasonable-accommodation-under-ada.html>

Oklahoma

The Oklahoma Supreme Court will be reviewing a constitutional challenge to the Oklahoma Employee Injury Benefit Act. A group of workers’ compensation attorneys filed the claim based on their belief that the Act does not provide any due process protection for injured workers. The Act, which became effective February 1, 2014, allows employers with at least 100 workers and \$1 million in net assets, among other conditions, to opt out of the state’s workers’ compensation system by providing an alternative benefit plan. <http://www.businessinsurance.com/article/20150217/NEWS08/150219871/oklahoma-work-comp-law-unconstitutional?tags=%7C75%7C92%7C304%7C329>

Additionally, the Oklahoma Supreme Court will be reviewing challenges to a January 9, 2015 ruling by a County judge that allowed an injured worker to sue his employer outside of the workers’ compensation system for negligence. The judge held that Oklahoma’s workers’ compensation law no longer provides the exclusive remedy for foreseeable injuries. <http://www.businessinsurance.com/article/20150201/NEWS08/150139969/workers-compensation-exclusive-remedy-provisions-under-attack?tags=%7C73%7C92%7C304%7C329>



Pennsylvania

A Pennsylvania man has been sentenced to three months' imprisonment followed by two years' supervised release and was ordered to pay back \$23,792 in workers' compensation benefits he fraudulently obtained. He received workers' compensation benefits for multiple years after falsely claiming he was residing with his wife when in fact he was in jail.

<http://www.workerscompensation.com/compnewsnetwork/news/20845-pa-man-sentenced-to-prison-for-workers-compensation-fraud.html>

Washington

A Washington man has been charged with 12 felony counts for allegedly obtaining controlled substances and prescription drugs by faking a workers' compensation injury. Additionally he has been charged with using false names – he would use combinations of his first name and the last names of multiple Seahawks players during his fraud.

<http://www.workerscompensation.com/compnewsnetwork/news/20854-wa-man-charged-in-scheme-to-get-painkillers-by-using-seahawks-players-last-names.html>

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For further information on this or any other topics, please contact your EPIC benefits consulting team.

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