

CONTACT:

Susan Nolan
Jordan Estey
NCOIL National Office
518-687-0178

NCOIL TAKES ON WORKERS' COMP CONCERN, WILL ADVANCE INDEPENDENT CONTRACTOR MODEL LAW

Troy, N.Y., March 9, 2009—In an effort to provide needed state guidance on a perennial workers' compensation concern, the National Conference of Insurance Legislators (NCOIL) in late February committed to develop an independent contractor status model law for consideration at its July Summer Meeting in Philadelphia, Pennsylvania. The model law would, among other things, help to control costs, ensure coverage, protect injured workers, and fight fraud by defining independent contractors—and criteria for their exemption—under state workers' compensation laws.

NCOIL Workers' Compensation Insurance Committee Chair Rep. Susan Westrom (KY), in commenting on the February 27 decision at the 2009 NCOIL Spring Meeting in Washington, D.C., said:

Among other issues, we've heard that many employers—frequently those in the construction, trucking, and logging industries—have financial incentives to 'recast' employees as independent contractors to avoid significant costs. A model could help define needed criteria relating to, among other things, the relationship between potential employers and subcontractors and the income sources of a would-be independent contractor, to ensure proper coverage and lessen regulatory confusion.

Rep. Westrom added that NCOIL action is timely, as federal officials are questioning the effectiveness of state insurance regulation—including that of state workers' compensation systems. She said:

An NCOIL model will set a standard for state use to determine when someone is truly an independent contractor. A lack of uniform criteria hinders our regulators' ability to determine if a worker should be exempt from coverage requirements as an independent contractor. This confusion hurts employer claims experience, leaves injured workers without coverage, and creates doubt among regulators and attorneys when settling claims and fighting fraud and abuse.

The Committee decision follows a 2009 charge and responds to a joint National Association of Insurance Commissioners (NAIC) and International Association of Industrial Accident Boards and Commissions (IAIABC) review of workers' compensation independent contractor issues. Among other suggestions, an NAIC/IAIABC working group supported clearer legal standards regarding independent contractor status.

Advancement of model legislation is consistent with NCOIL's ongoing objective to address state workers' compensation issues, as evidenced by its November 2007 adoption of an *NCOIL Model Act Regarding Workers' Compensation Insurance Coverage in Professional Employer Organization (PEO) Relationships*.

The NCOIL Summer Meeting will be held July 9 through July 12 at the Marriott Philadelphia Downtown. The February 28 through March 1 Spring Meeting took place at the Hyatt Regency on Capitol Hill in Washington, DC.

NCOIL is an organization of state legislators whose main area of public policy interest is insurance legislation and regulation. Most legislators active in NCOIL either chair or are members of the committees responsible for insurance legislation in their respective state houses across the country. More information is available at www.ncoil.org.

For further details, please contact Jordan Estey at 518-687-0178 or at jestey@ncoil.org.

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