

## FOR IMMEDIATE RELEASE

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### **NCOIL MODEL TO PREVENT CONSTRUCTION EMPLOYEE MISCLASSIFICATION, ADDRESS WORKERS' COMP FRAUD**

**New Orleans, LA, November 25, 2009**—The National Conference of Insurance Legislators (NCOIL) on November 22 took a strong stand against employee misclassification by unanimously approving a *Construction Industry Workers' Compensation Coverage Act* during its Annual Meeting here. The model provides needed protections for injured construction workers through transparency, accountability, and disclosure.

NCOIL Workers' Compensation Insurance Committee Chair Rep. Susan Westrom (KY)—whose committee unanimously approved the model on November 19—stressed the importance of strong enforcement, stating “by setting strict coverage requirements up front and increasing penalties and enforcement on the back end, the model will help states to weed out and deter abusive practices.”

Model co-sponsor Rep. Charles Curtiss (TN) said:

We know that certain employers misclassify workers to avoid paying premiums, leaving injured employees without benefits. This practice shifts costs to an already overburdened health insurance system and ultimately raises workers' comp costs for all businesses. In focusing the model on construction—an industry prone to accident and abuse—NCOIL believes it will take a large bite out of insurance fraud.

Co-sponsor Sen. Ralph Hudgens (GA) added, “As a small business owner, I know firsthand the advantage employers gain when they misclassify their employees or don't carry workers' comp. Fraud is a serious matter for the states, especially during the economic downturn. The model is an important tool to level the playing field for honest business owners that play by the rules.”

Stemming from 2009 Tennessee and West Virginia laws, the model mandates workers' compensation in the construction industry with the exception of sole proprietors on residential projects and homeowners, and holds primary contractors liable for the uninsured employees of any subcontractor hired. The legislation establishes auditing procedures, provides penalties for insurance fraud, and enhances state enforcement authority, based on provisions of Florida workers' comp statutes.

Originally proposed as a broad-based workers' comp bill dealing with all employments, the model was narrowed to hone in on construction—an area of widespread abuse. An NCOIL Subcommittee held seven conference calls between the NCOIL Summer and Annual Meeting to develop the model. On the conference calls, legislators rejected a nine-point test for independent contractor status and synchronized

model definitions with already established language in state workers' compensation, disability, and unemployment statutes.

The subcommittee worked with a range of interested parties to develop the model legislation, including several individual state regulators through the International Association of Industrial Accident Boards & Commissions (IAIABC) and National Association of Insurance Commissioners (NAIC). Other participating organizations included the following:

- American Insurance Association (AIA)
- American Trucking Association (ATA)
- Associated Builders and Contractors (ABC)
- American Council of Life Insurers (ACLI)
- Coalition Against Insurance Fraud
- Coalition for Independent Contractor Freedom
- Messenger Courier Association of the Americas (MCAA)
- National Association of Professional Employer Organizations (NAPEO)
- National Association of Professional Insurance Agents (PIA)
- National Council on Compensation Insurance (NCCI)
- National Federation of Independent Business (NFIB)
- Property Casualty Insurers of America (PCI)
- Strategic Services on Unemployment and Workers' Compensation Insurance (UWC Strategies)
- United Brotherhood of Carpenters and Joiners of America (UBCJA)
- United Parcel Service (UPS).

Approval of the model legislation fulfills a 2009 charge and responds to a joint NAIC and IAIABC review of workers' compensation independent contractor issues. As an offshoot of the model, the NCOIL Workers' Compensation Committee has been charged in 2010 to examine the use of independent contractors in the trucking and transportation industries.

The November 18 through 22 NCOIL Annual Meeting was held at the Royal Sonesta Hotel.

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](http://www.ncoil.org).

For further details, please contact the NCOIL National Office at 518-687-0178.

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