This information is provided to attendees at the Annual Workers' Compensation Educational Conference. These statutes and rules are provided for the convenience of the user and no representation or warranty is made that the information is current or accurate. With the printing of these statutory and, where applicable, regulatory provisions, we attempt to be correct and accurate. We will correct any errors or omissions and we encourage readers to inform us of any errors by emailing stephanie@wci360.com. For the "official text" of each state's law, please refer to the promulgated statutory provisions of each such state.

Tennessee Workers' Compensation Law

§ 50-6-101. Short title; application

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

This chapter shall be cited to as the "Workers' Compensation Law" and shall be controlling for any claim for workers' compensation benefits for an injury, as defined in this chapter, when the date of injury is on or after July 1, 2014. All claims having a date of injury prior to July 1, 2014, shall be governed by prior law.

§ 50-6-102. Definitions

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

As used in this chapter, unless the context otherwise requires:

(1) "Administrator" means the chief administrative officer of the division of workers' compensation of the department of labor and workforce development;

(2) "AMA guides" means the 6th edition of the American Medical Association Guides to the Evaluation of Permanent Impairment, American Medical Association, until a new edition is designated by the general assembly in accordance with § 50-6-204(k)(2)(A). The edition that is in effect on the date the employee is injured is the edition that shall be applicable to the claim;

(3) (A) "Average weekly wages" means the earnings of the injured employee in the employment in which the injured employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of the injury divided by fifty-two (52); but if the injured employee lost more than seven (7) days during the period when the injured employee did not work, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks remaining after the time so lost has been deducted;

(B) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the em-

ployee earned wages shall be followed; provided, that results just and fair to both parties will be obtained;

(C) Where, by reason of the shortness of the time during which the employee has been in the employment of the employer, it is impracticable to compute the average weekly wages as defined in this subdivision (3), regard shall be had to the average weekly amount that, during the first fifty-two (52) weeks prior to the injury or death, was being earned by a person in the same grade, employed at the same work by the same employer, and if there is no such person so employed, by a person in the same grade employed in the same class of employment in the same district;

(D) Wherever allowances of any character made to any employee in lieu of wages are specified as part of the wage contract, they shall be deemed a part of the employee's earnings;

(4) Deleted by 2013 Pub.Acts, c. 282, § 2, eff. July 1, 2014.

(5) "Case management" means medical case management or the ongoing coordination of medical care services provided to an injured or disabled employee on all cases where medical care expenses are expected to exceed a threshold;

(6) "Commissioner" means the commissioner of labor and workforce development;

(7) "Construction design professional" means:

(A) Any person possessing a valid registration or license entitling that person to practice the technical profession of architecture, engineering, landscape architecture or land surveying in this state;

(B) Any corporation, partnership, firm or other legal entity authorized by law to engage in the technical profession of architecture, engineering, landscape architecture or land surveying in this state; or

(C) Any person, firm or corporation providing interior space planning or design in this state;

(8) "Court of workers' compensation claims" means the adjudicative function within the division of workers' compensation;

(9) "Department" means the department of labor and workforce development;

(10) "Division" or "division of workers' compensation" means the division of workers' compensation of the department of labor and workforce development;

(11) (A) "Employee" includes every person, including a minor, whether lawfully or unlawfully employed, the president, any vice president, secretary, treasurer or other executive officer of a corporate employer without regard to the nature of the duties of the corporate officials, in the service of an employer, as employer is defined in subdivision (12), under any contract of hire or apprenticeship, written or implied. Any reference in this chapter to an employee who has been injured shall, where the employee is dead, also include the employee's legal representatives, dependents and other persons to whom compensation may be payable under this chapter;

(B) "Employee" includes a sole proprietor or a partner who devotes full time to the proprietorship or partnership and elects to be included in the definition

of employee by filing written notice of the election with the division at least thirty (30) days before the occurrence of any injury or death, and may at any time withdraw the election by giving notice of the withdrawal to the division;

(C) The provisions of this subdivision (11) allowing a sole proprietor or a partner to elect to come under this chapter shall not be construed to deny coverage of the sole proprietor or partner under any individual or group accident and sickness policy the sole proprietor or partner may have in effect, in cases where the sole proprietor or partner has elected not to be covered by this chapter, for injuries sustained by the sole proprietor or partner that would have been covered by this chapter had the election been made, notwithstanding any provision of the accident and sickness policy to the contrary. Nothing in this section shall require coverage of occupational injuries or sicknesses, if occupational injuries or sicknesses are not covered under the terms of the policy without reference to eligibility for workers' compensation benefits;

(D) In a work relationship, in order to determine whether an individual is an "employee," or whether an individual is a "subcontractor" or an "independent contractor," the following factors shall be considered:

(i) The right to control the conduct of the work;

(ii) The right of termination;

(iii) The method of payment;

(iv) The freedom to select and hire helpers;

(v) The furnishing of tools and equipment;

(vi) Self-scheduling of working hours; and

(vii) The freedom to offer services to other entities;

(E) "Employee" does not include a construction services provider, as defined in § 50-6-901, if the construction services provider is:

(i) Listed on the registry established pursuant to part 9 of this chapter as having a workers' compensation exemption and is working in the service of the business entity through which the provider obtained such an exemption;

(ii) Not covered under a policy of workers' compensation insurance maintained by the person or entity for whom the provider is providing services; and

(iii) Rendering services on a construction project that:

(a) Is not a commercial construction project, as defined in § 50-6-901; or

(b) Is a commercial construction project, as defined in § 50-6-901, and the general contractor for whom the construction services provider renders construction services complies with § 50-6-914(b)(2);

(12) "Employer" includes any individual, firm, association or corporation, the receiver or trustee of the individual, firm, association or corporation, or the legal

representative of a deceased employer, using the services of not less than five (5) persons for pay, except as provided in § 50-6-902, and, in the case of an employer engaged in the mining and production of coal, one (1) employee for pay. If the employer is insured, it shall include the employer's insurer, unless otherwise provided in this chapter;

(13) "Injury" and "personal injury" mean an injury by accident, a mental injury, occupational disease including diseases of the heart, lung and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee; provided, that:

(A) An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment;

(B) An injury "arises primarily out of and in the course and scope of employment" only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the injury, considering all causes;

(C) An injury causes death, disablement or the need for medical treatment only if it has been shown to a reasonable degree of medical certainty that it contributed more than fifty percent (50%) in causing the death, disablement or need for medical treatment, considering all causes;

(D) "Shown to a reasonable degree of medical certainty" means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility;

(E) The opinion of the treating physician, selected by the employee from the employer's designated panel of physicians pursuant to § 50-6-204(a)(3), shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence;

(14) (A) "Maximum total benefit" means the sum of all weekly benefits to which a worker may be entitled;

(B) For injuries occurring on or after July 1, 1992, but before July 1, 2009, the maximum total benefit shall be four hundred (400) weeks times the maximum weekly benefit, except in instances of permanent total disability;

(C) For injuries occurring on or after July 1, 2009, but before July 1, 2014, the maximum total benefit shall be four hundred (400) weeks times one hundred percent (100%) of the state's average weekly wage, as determined pursuant to subdivision (15)(B), except in instances of permanent total disability. Temporary total disability benefits paid to the injured worker shall not be included in calculating the maximum total benefit;

(D) For injuries occurring on or after July 1, 2014, the maximum total benefit shall be four hundred fifty (450) weeks times one hundred percent (100%)

of the state's average weekly wage, as determined pursuant to subdivision (15)(B), except in instances of permanent total disability. Temporary total disability benefits paid to the injured worker before the employee attains maximum medical improvement shall not be included in calculating the maximum total benefit;

(15) (A) (i) "Maximum weekly benefit" means the maximum compensation payable to the worker per week;

(ii) For injuries occurring between July 1, 1990, and June 30, 1991, the maximum weekly benefit shall be two hundred seventy-three dollars ($273) per week;

(iii) For injuries occurring on or after July 1, 1991, and before August 1, 1992, the maximum weekly benefit shall be two hundred ninety-four dollars ($294) per week;

(iv) For injuries occurring on or after August 1, 1992, and through June 30, 1993, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to seventy-eight percent (78%) of the state's average weekly wage, as determined by the department;

(v) For injuries occurring on or after July 1, 1993, and through June 30, 1994, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to eighty-two and four-tenths percent (82.4%) of the state's average weekly wage, as determined by the department;

(vi) For injuries occurring on or after July 1, 1994, and through June 30, 1995, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to eighty-six and eight-tenths percent (86.8%) of the state's average weekly wage, as determined by the department;

(vii) For injuries occurring on or after July 1, 1995, and through June 30, 1996, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to ninety-one and two-tenths percent (91.2%) of the state's average weekly wage, as determined by the department;

(viii) For injuries occurring on or after July 1, 1996, and through June 30, 1997, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to ninety-five and six-tenths percent (95.6%) of the state's average weekly wage as determined by the department;

(ix) For injuries occurring on or after July 1, 1997, and through June 30, 2004, the maximum weekly benefit shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to one hundred percent (100%) of the state's average weekly wage as determined by the department;

(x) For injuries occurring on or after July 1, 2004, the maximum weekly benefit for permanent disability benefits shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up

to one hundred percent (100%) of the state's average weekly wage, as determined by the department; and

(xi) (a) For injuries occurring on or after July 1, 2004, through June 30, 2005, the maximum weekly benefit for temporary disability benefits shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to one hundred five percent (105%) of the state's average weekly wage, as determined by the department; and

(b) For injuries occurring on or after July 1, 2005, the maximum weekly benefit for temporary disability benefits shall be sixty-six and two thirds percent (66 ⅔ %) of the employee's average weekly wage up to one hundred ten percent (110%) of the state's average weekly wage, as determined by the department;

(B) As used in subdivision (15)(A), the state average weekly wage shall be determined as of the preceding January 1, and shall be adjusted annually using the data from the division and shall be effective on July 1 of each year;

(16) "Mental injury" means a loss of mental faculties or a mental or behavioral disorder, arising primarily out of a compensable physical injury or an identifiable work related event resulting in a sudden or unusual stimulus, and shall not include a psychological or psychiatric response due to the loss of employment or employment opportunities;

(17) "Minimum weekly benefit" means the minimum compensation per week payable to the worker, which shall be fifteen percent (15%) of the state's average weekly wage, as determined by the department;

(18) "Specialty practice group" means a group of Tennessee licensed physicians, surgeons, or chiropractors providing medical care services of the same or similar medical specialty as each other and operating out of the same physical location; and

(19) "Utilization review" means evaluation of the necessity, appropriateness, efficiency and quality of medical care services, including the prescribing of one (1) or more Schedule II, III, or IV controlled substances for pain management for a period of time exceeding ninety (90) days from the initial prescription of such controlled substances, provided to an injured or disabled employee based on medically accepted standards and an objective evaluation of those services provided; provided, that "utilization review" does not include the establishment of approved payment levels, a review of medical charges or fees, or an initial evaluation of an injured or disabled employee by a physician specializing in pain management.

(20) Deleted by 2013 Pub.Acts, c. 289, § 8, eff. July 1, 2014.

§ 50-6-103. Compensation for personal injury or death; exemptions

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Every employer and employee subject to this chapter, shall, respectively, pay and accept compensation for personal injury or death by accident arising primarily out of and in the course and scope of employment without regard to fault as a cause of the injury or death; provided, that any person who has an exemption pursuant to § 50-6-104 or part 9 of this chapter shall not be bound if the employee has given, prior to any accident resulting in injury or death, notice to be exempted from this chapter as provided in this part.

(b) Deleted by 2013 Pub.Acts, c. 289, § 11, eff. July 1, 2014.

§ 50-6-104. Exemptions; corporate officers; elections

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Any officer of a corporation may elect to be exempt from the operation of this chapter. Any officer who elects exemption and who, after electing exemption then revokes that exemption, shall give notice to that effect in accordance with a form prescribed by the division.

(b) Notice given pursuant to subsection (a) shall be given thirty (30) days prior to any accident resulting in injury or death; provided, that if any injury or death occurs less than thirty (30) days after the date of employment, notice of the exemption or acceptance given at the time of employment shall be sufficient notice of exemption.

(c) The notice of election not to accept this chapter, shall be as follows: the employee shall give written or printed notice to the employer of the employee's election not to be bound by the Workers' Compensation Law and file with the division, a duplicate, with proof of service on the employer attached to the notice, together with an affidavit of the employee that the action of the employee in rejecting the Workers' Compensation Law was not advised, counseled or encouraged by the employer or by anyone acting for the employer.

(d) Deleted by 2013 Pub.Acts, c. 289, § 12, eff. July 1, 2014.

(e) The election by any employee, who is a corporate officer of the employer, to be exempted from this chapter, shall not reduce the number of employees of the employer for the purposes of determining the requirements of coverage of the employer under this chapter.

(f) Every employee who is a corporate officer and who elects not to operate under this chapter, in any action to recover damages for personal injury or death by accident brought against an employer who has elected to operate under this chapter, shall proceed as at common law, and the employer may make use of all common law defenses. This section shall not apply to any officer of a corporation, member of a limited liability company, partner, or sole proprietor who is engaged in the construction industry, as defined by § 50-6-901; instead, part 9 of this chapter shall apply to such officer, member, partner or sole proprietor.

§ 50-6-105. Municipal corporations; associations or funds for relief, pensioning, retirement or other benefit of employees

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Nothing in this chapter shall be construed as amending or repealing any statute or municipal ordinance relating to associations or funds for the relief, pensioning, retirement or other benefit of any employees of the municipal employer, or of the surviving spouses, children or dependents of the employees of the municipal employer, or as in any manner interfering with any statute or municipal ordinance as now or hereafter established.

§ 50-6-106. Common carriers doing interstate business; casual employment; domestic servants; farm laborers

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

This chapter shall not apply to:

(1) (A) Any common carrier doing an interstate business while engaged in interstate commerce, which common carrier and the interstate business are already regulated as to employer's liability or workers' compensation by act of congress, it being the purpose of this law to regulate all such business that the congress has not regulated in the exercise of its jurisdiction to regulate interstate commerce; provided, that this chapter shall apply to those employees of the common carriers with respect to whom a rule of liability is not provided by act of congress; provided, further, that no common carrier by motor vehicle operating pursuant to a certificate of public convenience and necessity shall be deemed the employer of a leased-operator or owner-operator of a motor vehicle or vehicles under a contract to such a common carrier;

(B) Notwithstanding subdivision (1)(A), a leased operator or a leased owner/operator of a motor vehicle under contract to a common carrier may elect to be covered under any policy of workers' compensation insurance insuring the common carrier upon written agreement of the common carrier, by filing written notice of the contract, on a form prescribed by the administrator, with the division; provided, that the election shall in no way terminate or affect the independent contractor status of the leased operator or leased owner/operator for any other purpose than to permit workers' compensation coverage. The leased operator or leased owner/operator electing coverage as provided in this section shall establish the validity of and satisfy the terms and conditions of all contractual agreements between the parties prior to the payment of any claim for workers' compensation. The election of coverage may be terminated by the leased operator, leased owner/operator, or common carrier by providing written notice of the termination to the division and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the division;

(C) The venue of any dispute arising out of or connected with the validity of the contractual relationship or terms of the written agreement upon which the workers' compensation benefits are extended between the common carrier and a leased operator or leased owner/operator shall be the chancery court of the county where the contract was entered or the county of the principal place of business of the common carrier;

(D) Whenever the leased operator, the leased owner/operator or the carrier files a suit to resolve a contract dispute pursuant to subdivision (C), the statute of limitations for filing a petition for benefit determination with the division shall be tolled for ninety (90) days after final judgment has been entered in the suit including all appeals. In cases where a leased operator or leased owner/operator has filed a petition for benefit determination before the leased operator, leased owner/operator or the carrier has filed a suit pursuant to subdivision (C) to resolve a contract dispute, the petition for benefit determination shall be held in abeyance by the division until final judgment, including all appeals, has been entered in the suit filed pursuant to subdivision (C).

(2) Any person whose employment at the time of injury is casual, that is, one who is not employed in the usual course of trade, business, profession or occupation of the employer;

(3) Domestic servants and employers of domestic servants;

(4) Farm or agricultural laborers and employers of those laborers;

(5) In cases where fewer than five (5) persons are regularly employed, except as provided in § 50-6-902; provided, that in those cases the employer may accept this chapter by filing written notice of the acceptance with the division at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of withdrawal;

(6) The state, counties of the state and municipal corporations; provided, that the state, any county or municipal corporation may accept this chapter by filing written notice of the acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death, and may at any time withdraw the acceptance by giving like notice of the withdrawal. The state, any county or municipal corporation may accept this chapter as to any department or division of the state, county or municipal corporation by filing written notice of acceptance with the division under the administrator, at least thirty (30) days before the happening of any accident or death and may, at any time, withdraw acceptance for the division or department by giving like notice of the withdrawal, and the acceptance by the state, county or municipal corporation for any department or division of the state, county or municipal corporation shall have effect only of making the department or division designated subject to the terms of this chapter; or

(7) Any person performing voluntary service as a ski patrolperson who receives no compensation for the services other than meals, lodging or the use of ski tow or ski lift facilities or any combination of meals, lodging and the use of ski tow or ski lift facilities.

§ 50-6-107. Coal and coal mines

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

This chapter shall apply to coal mine operators and to their employees.

§ 50-6-108. Exclusive rights and remedies; third party indemnity

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The rights and remedies granted to an employee subject to this chapter, on account of personal injury or death by accident, including a minor whether lawfully or unlawfully employed, shall exclude all other rights and remedies of the employee, the employee's personal representative, dependents or next of kin, at common law or otherwise, on account of the injury or death.

(b) No employer who fails to secure payment of compensation as required by this chapter, shall be permitted to defend the suit upon any of the following grounds, in any suit brought against the employer by an employee covered by this chapter or by the dependent or dependents of the employee, to recover damages for personal injury or death arising from an accident:

(1) The employee was negligent;

(2) The injury was caused by the negligence of a fellow servant or fellow employee; or

(3) The employee had assumed the risk of the injury.

(c) This section shall not be construed to preclude third party indemnity actions against an employer who has expressly contracted to indemnify the third party.

§ 50-6-109. Fines and penalties

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Nothing in this chapter shall be construed to relieve any employer or employee from penalty for failure or neglect to perform any statutory duty.

§ 50-6-110. Employee's willful misconduct; voluntary participation in recreational or social activities; burden of proof; drug-free workplace, presumption; drug testing

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) No compensation shall be allowed for an injury or death due to:

(1) The employee's willful misconduct;

(2) The employee's intentional self-inflicted injury;

(3) The employee's intoxication or illegal drug usage;

(4) The employee's willful failure or refusal to use a safety device;

(5) The employee's willful failure to perform a duty required by law; or

(6) The employee's voluntary participation in recreational, social, athletic or exercise activities, including, but not limited to, athletic events, competitions, parties, picnics, or exercise programs, whether or not the employer pays some or all of the costs of the activities unless:

(A) Participation was expressly or impliedly required by the employer;

(B) Participation produced a direct benefit to the employer beyond improvement in employee health and morale;

(C) Participation was during employee's work hours and was part of the employee's work-related duties; or

(D) The injury occurred due to an unsafe condition during voluntary participation using facilities designated by, furnished by or maintained by the employer on or off the employer's premises and the employer had actual knowledge of the unsafe condition and failed to curtail the activity or program or cure the unsafe condition.

(b) If the employer defends on the ground that the injury arose in any or all of the ways stated in subsection (a), the burden of proof shall be on the employer to establish the defense.

(c) (1) In cases where the employer has implemented a drug-free workplace pursuant to chapter 9 of this title, if the injured employee has, at the time of the injury, a blood alcohol concentration level equal to or greater than eight hundredths of one percent (0.08%) for non-safety sensitive positions, or four hundredths of one percent (0.04%) for safety-sensitive positions, as determined by blood or breath testing, or if the injured employee has a positive confirmation of a drug as defined in § 50-9-103, then it is presumed that the drug or alcohol was the proximate cause of the injury. This presumption may be rebutted by clear and convincing evidence that the drug or alcohol was not the proximate cause of injury. Percent by weight of alcohol in the blood must be based upon grams of alcohol per one hundred milliliters (100 mL) of blood. If the results are positive, the testing facility must maintain the specimen for a minimum of three hundred sixty-five (365) days at minus twenty degrees celsius (-20° C.). Blood serum may be used for testing purposes under this chapter; provided, however, that if this test is used, the presumptions under this section do not arise unless the blood alcohol level is proved to be medically and scientifically equivalent to or greater than the comparable blood alcohol level that would have been obtained if the test were based on percent by weight of alcohol in the blood. However, if, before the accident, the employer had actual knowledge of and acquiesced in the employee's presence at the workplace while under the influence of alcohol or drugs, the employer retains the burden of proof in asserting any defense under subsections (a) and (b), and this subsection (c) does not apply.

(2) If the injured worker refuses to submit to a drug test, it shall be presumed, in the absence of clear and convincing evidence to the contrary, that the proximate cause of the injury was the influence of drugs, as defined in § 50-9-103.

(3) The administrator of the division of workers' compensation shall provide, by rule, for the authorization and regulation of drug testing policies, procedures and methods. Testing of injured employees pursuant to a drug-free workplace program under chapter 9 of this title shall not commence until the rules are adopted.

§ 50-6-112. Third party actions

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) When the injury or death for which compensation is payable under this chapter was caused under circumstances creating a legal liability against some person other than the employer to pay damages, the injured worker, or the injured worker's dependents, shall have the right to take compensation under this chapter, and the injured worker, or those to whom the injured worker's right of action survives at law, may pursue the injured worker's or their remedy by proper action in a court of competent jurisdiction against the other person.

(b) In the event of a recovery from the other person by the worker, or those to whom the worker's right of action survives, by judgment, settlement or otherwise, the attorney representing the injured worker, or those to whom the injured worker's right of action survives, and effecting the recovery, shall be entitled to a reasonable fee for the attorney's services, and the attorney shall have a first lien for the fees against the recovery; provided, that if the employer has engaged other counsel to represent the employer in effecting recovery against the other person, then a court of competent jurisdiction shall, upon application, apportion the reasonable fee between the attorney for the worker and the attorney for the employer, in proportion to the services rendered.

(c) (1) In the event of a recovery against the third person by the worker, or by those to whom the worker's right of action survives, by judgment, settlement or otherwise, and the employer's maximum liability for workers' compensation under this chapter has been fully or partially paid and discharged, the employer shall have a subrogation lien against the recovery, and the employer may intervene in any action to protect and enforce the lien.

(2) In the event the net recovery by the worker, or by those to whom the worker's right of action survives, exceeds the amount paid by the employer, and the employer has not, at the time, paid and discharged the employer's full maximum liability for workers' compensation under this chapter, the employer shall be entitled to a credit on the employer's future liability, as it accrues, to the extent the net recovery collected exceeds the amount paid by the employer.

(3) In the event the worker, or those to whom the worker's right of action survives, effects a recovery, and collection of that recovery, from the other person, by judgment, settlement or otherwise, without intervention by the employer, the employer shall nevertheless be entitled to a credit on the employer's future liability for workers' compensation, as it accrues under this chapter, to the extent of the net recovery.

(d) (1) The action against the other person by the injured worker, or those to whom the injured worker's right of action survives, must be instituted in all cases within one (1) year from the date of injury.

(2) Failure on the part of the injured worker, or those to whom the injured worker's right of action survives, to bring the action within the one-year period shall operate as an assignment to the employer of any cause of action in tort that the worker, or those to whom the worker's right of action survives, may have against any other person for the injury or death, and the employer may enforce the cause of action in the employer's own name or in the name of the worker, or those to whom the worker's right of action survives, for the employer's benefit, as the employer's interest may appear, and the employer shall have six (6) months after the assignment within which to commence the suit.

(3) If the cause of action described in subsection (a) arises in a jurisdiction other than this state and the other jurisdiction has a statute of limitations for personal injury and wrongful death greater than the one-year statute of limitations provided in this state, the court hearing the cause of action shall apply the statute of limitations that provides the injured worker, or those to whom the injured worker's right of action survives, the greatest amount of time in which to institute an action.

(4) Under no circumstances shall the negligent party described in subsection (a) benefit from this subsection (d).

§ 50-6-113. Principals, intermediate contractors or subcontractors; liability

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) A principal contractor, intermediate contractor or subcontractor shall be liable for compensation to any employee injured while in the employ of any of the subcontractors of the principal contractor, intermediate contractor or subcontractor and engaged upon the subject matter of the contract to the same extent as the immediate employer.

(b) Any principal contractor, intermediate contractor or subcontractor who pays compensation under subsection (a) may recover the amount paid from any person who, independently of this section, would have been liable to pay compensation to the injured employee, or from any intermediate contractor.

(c) Every claim for compensation under this section shall be in the first instance presented to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the principal contractor or intermediate contractor; provided, that the collection of full compensation from one (1) employer shall bar recovery by the employee against any others, nor shall the employee collect from all a total compensation in excess of the amount for which any of the contractors is liable.

(d) This section applies only in cases where the injury occurred on, in, or about the premises on which the principal contractor has undertaken to execute work or that are otherwise under the principal contractor's control or management.

(e) A subcontractor under contract to a general contractor may elect to be covered under any policy of workers' compensation insurance insuring the contractor upon written agreement of the contractor, by filing written notice of the election, on a form prescribed by the administrator, with the division. It is the responsibility of the general contractor to file the written notice with the division. Failure of the general contractor to file the written notice shall not operate to relieve or alter the obligation of an insurance company to provide coverage to a subcontractor when the subcontractor can produce evidence of payment of premiums to the insurance company for the coverage. The election shall in no way terminate or affect the independent contractor status of the subcontractor for any other purpose than to permit workers' compensation coverage. The election of coverage may be terminated by the subcontractor or general contractor by providing written notice of the termination to the division and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the division.

(f) This section shall not apply to a construction services provider, as defined by § 50-6-901.

§ 50-6-114. Contracts; rules and regulations; relief from obligations; offsets

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) No contract or agreement, written or implied, or rule, regulation or other device, shall in any manner operate to relieve any employer, in whole or in part, of any obligation created by this chapter, except as provided in subsection (b).

(b) Any employer may set off from temporary total, temporary partial, permanent partial and permanent total disability benefits any payment made to an employee under an employer funded disability plan for the same injury; provided, that the disability plan permits such an offset. The offset from a disability plan may not result in an employee's receiving less than the employee would otherwise receive under this chapter. In the event that a collective bargaining agreement is in effect, this subsection (b) shall be subject to the agreement of both parties.

§ 50-6-115. Foreign states

Effective: July 10, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) For purposes of this section, an employee is considered to be temporarily in a state working for an employer if the employee is working for such employee's employer in a state other than the state where such employee is primarily employed for no more than fourteen (14) consecutive days, or no more than twenty-five (25) days total, during a calendar year.

(b) (1) If an employee in this state who is subject to this chapter temporarily leaves this state incidental to the employee's employment and receives an accidental injury arising out of and in the course and scope of the employee's employment, the

employee, or the employee's beneficiaries in the case of an injury that results in the employee's death, shall be entitled to the benefits of this chapter as if the employee was injured in this state.

(2) If an employee, while working outside the territorial limits of this state other than temporarily, suffers an injury on account of which the employee, or, in the event of the employee's death, the employee's dependents, would have been entitled to the benefits provided by this chapter had the injury occurred within this state, the employee, or in the event of the employee's death resulting from the injury, the employee's dependents, shall be entitled to the benefits provided by this chapter; provided, that at the time of the injury:

(A) The employment was principally localized within this state;

(B) The contract of hire was made in this state; or

(C) If at the time of the injury the injured worker was a Tennessee resident and there existed a substantial connection between this state and the particular employer and employee relationship.

(c) (1) An employee from another state and the employee's employer are exempt from this chapter while the employee is temporarily in this state performing work for the employer if:

(A) The employer has furnished workers' compensation insurance coverage under the workers' compensation insurance or similar laws of the other state to cover the employee's employment while in this state;

(B) The extraterritorial provisions of this chapter are recognized in the other state; and

(C) Employees and employers who are covered in this state are likewise exempted from the application of the workers' compensation insurance or similar laws of the other state.

(2) The benefits under the workers' compensation insurance or similar laws of the other state, or other remedies under similar law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while temporarily working for that employer in this state.

(3) A certificate from the duly authorized officer of the appropriate department of another state certifying that the employer of such other state is insured in that state and has provided extraterritorial coverage insuring employees while working in this state is prima facie evidence that the employer carries such workers' compensation insurance.

(4) Whenever in any appeal or other litigation the construction of the laws of another jurisdiction is required, the courts shall take judicial notice of such construction of the laws of the other jurisdiction.

(5) When an employee has a claim under the workers' compensation insurance laws of another state, territory, province, or foreign nation for the same injury or occupational disease as the claim filed in this state, the total amount of compensation paid or awarded under such other workers' compensation law shall be credited against the compensation due under this chapter.

(d) (1) Any employer who is insured in this state for workers' compensation under this chapter, and who has extraterritorial coverage under this chapter, for their

employees while such employees are temporarily working outside this state within the meaning of subsection (a) may obtain a certificate evidencing such coverage at the time that the application for certification is made from the commissioner of commerce and insurance.

(2) In order to obtain a certificate under subdivision (d)(1), an employer shall:

(A) File an application with the commissioner of commerce and insurance, on a form that is approved by the commissioner of commerce and insurance;

(B) Pay a filing fee to the department of commerce and insurance in the amount of one hundred dollars ($100). The commissioner of commerce and insurance may change the amount of the filing fee required by this subdivision (d)(2)(B) by promulgating a rule pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as necessary to ensure that the proceeds of such filing fees are sufficient to offset the cost of processing applications and issuing the certificates authorized by this subsection (d); and

(C) Submit to the commissioner of commerce and insurance a copy of the declaration page from the employer's workers' compensation insurance policy, or such proof as the commissioner of commerce and insurance may require to demonstrate that the employer is self insured for workers' compensation and the territorial limits of such coverage.

(3) The commissioner of commerce and insurance is authorized to issue a certificate that certifies that, at the time that the application for certification is made, the applicant employer in this state is insured for workers' compensation under this chapter, and that such employers have extraterritorial coverage under this chapter, for their employees while such employees are temporarily working outside this state within the meaning of subsection (a).

§ 50-6-116. Construction

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

For any claim for workers' compensation benefits for an injury, as defined in this chapter, when the date of injury is on or after July 1, 2014, this chapter shall not be remedially or liberally construed but shall be construed fairly, impartially, and in accordance with basic principles of statutory construction and this chapter shall not be construed in a manner favoring either the employee or the employer.

§ 50-6-118. Fines and penalties

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The division of workers' compensation shall, by rule promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, establish and collect penalties for the following:

(1) Failure of a covered employer to provide workers' compensation coverage or qualify as a self-insurer;

(2) Late filing of accident reports;

(3) Bad faith denial of claims;

(4) Late filing of notice of denial of claim;

(5) Deleted by 2013 Pub.Acts, c. 289, § 17, eff. July 1, 2014.

(6) Deleted by 2013 Pub.Acts, c. 289, § 17, eff. July 1, 2014.

(7) Deleted by 2013 Pub.Acts, c. 289, § 17, eff. July 1, 2014.

(8) Failure of any party to appear or to mediate in good faith at any alternative dispute resolution proceeding;

(9) Failure of any party to comply, within the designated timeframe, with any order or judgment issued by a workers' compensation judge;

(10) Performance of any enumerated action provided in § 29-9-102 in relation to any proceedings in the court of workers' compensation claims;

(11) Failure of any employer to timely provide medical treatment made reasonably necessary by the accident and recommended by the authorized treating physician or operating physician;

(12) Failure of an employer to timely provide a panel of physicians that meets the statutory requirements of this chapter;

(13) Wrongful failure of an employer to pay an employee's claim for temporary total disability payments;

(14) Wrongful failure to satisfy the terms of an approved settlement; and

(15) Refusal to cooperate with the services provided by an ombudsman;

(b) All penalties collected by the division from an employer for failure to provide workers' compensation coverage or failure to qualify as a self-insurer shall be paid into and become a part of the uninsured employers fund. All other penalties collected pursuant to an assessment made under this section shall be paid to the division for use by the division, at the discretion of the administrator, to offset the cost of administering this chapter.

(c) The division of workers' compensation may assess the penalties authorized by this chapter, upon providing notice and an opportunity for a hearing to an employer, an employee, an insurer, or a self-insured pool or trust. If a hearing is requested, the commissioner, commissioner's designee, or an agency member appointed by the commissioner shall have the authority to hear the matter as a contested case, and the authority to hear the administrative appeal of an agency decision, relating to the assessment of the penalties authorized by this chapter. When a hearing or review of an agency decision is requested, the requesting party shall have the burden of proving, by a preponderance of the evidence, that the penalized party was either not subject to this chapter, or that the penalties assessed pursuant to this chapter should not have been assessed. Any party assessed a penalty pursuant to this section shall have the right to appeal the penalty assessed by the division and affirmed by the commissioner, the commissioner's designee or an agency member in the manner provided in this subsection (c), pursuant to the Uniform Administrative Procedures Act.

(d) If an employee receives a settlement, judgment or decree under this chapter that includes the payment of medical expenses and the employer or workers' compensation carrier wrongfully fails to reimburse an employee for any medical expenses actually paid by the employee within sixty (60) days of the settlement, judgment or decree, or fails to provide reasonable and necessary medical expenses and treatment, including failure to reimburse for reasonable and necessary medical expenses, in bad faith after receiving reasonable notice of their obligation to provide the medical treatment, the employer or workers' compensation carrier shall be liable, in the discretion of the court, to pay the employee, in addition to the amount due for medical expenses paid, a sum not exceeding twenty-five percent (25%) of the expenses; provided, that it is made to appear to the court that the refusal to pay the claim was not in good faith and that the failure to pay inflicted additional expense, loss or injury upon the employee.

§ 50-6-119. Information awareness program

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) In order to provide greater awareness among employers and employees of the rights and obligations of the workers' compensation laws, the division of workers' compensation shall institute an information awareness program. The program shall:

(1) Involve a statewide effort to consult with employers on the actions required;

(2) Provide that employers with frequent incidents of injuries be targeted for referral to appropriate agencies on accident prevention;

(3) Provide education and information aimed at preventing disputes and delays in the processing of claims, through the use of speakers' seminars and conferences;

(4) Provide a system to communicate developments in the law to interested groups;

(5) Provide injured employees with complete information on their rights to compensation and day-to-day assistance with problems on their claims;

(6) Develop general informational literature and audio-visual aids for both employees and employers; and

(7) Provide a toll-free number for employers and employees to receive information from and ask questions of the department.

(b) Any publications for distribution under this section must be published in accordance with the rules, regulations, policies and procedures of the state publications committee.

§ 50-6-120. Construction design professionals

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) No construction design professional, or any employee of the construction design professional, who is retained to perform professional services on a construction project, shall be liable for the personal injury or death of any nonemployee of the construction design professional, working on the construction project, unless the construction design professional or any employee of the construction design professional is guilty of negligence that is a proximate cause of the injury or death of the nonemployee.

(b) Nothing in this section shall be construed to affect the rights or responsibilities of any person under this chapter.

(c) Rule 11 of the Tennessee Rules of Civil Procedure shall apply in all actions against construction design professionals.

§ 50-6-121. Advisory council

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) (A) There is created an advisory council on workers' compensation. There shall be seven (7) voting members of the council, with three (3) representing employers, three (3) representing employees, and one (1) member who shall serve as the chair and who shall be the state treasurer or the state treasurer's designee. There shall be ten (10) nonvoting members of the council. All members shall have a demonstrable working knowledge of the workers' compensation system.

(B) The chair shall preside at meetings of the council and, in consultation with the voting members of the council, shall supervise the work of the staff of the council. The council shall meet at the call of the chair or at the written call of four (4) voting members of the council which written call shall be delivered to the chair. The chair may vote only on matters related to the administration of the council or the council's research. The chair is not permitted to vote on any matter that constitutes the making of a policy recommendation to the governor or to the general assembly.

(C) The speaker of the house of representatives, the speaker of the senate and the governor shall each appoint one (1) employer and one (1) employee representative to the council, who shall be voting members. Representatives, officers and employees from labor organizations or business trade organizations are eligible for appointment. In making the appointments of the employer representatives, the appointing authorities shall strive to ensure a balance of a commercially insured employer, self-insured employer or an employer who operates a small business. At least one (1) employee representative shall be from organized labor. Proxy voting is prohibited by voting members of the council; provided, however, that in instances where a voting member will be absent from a vote of the council, the member's appointing authority is authorized to appoint an alternate or designee for the vote or votes.

(D) Voting members shall serve four-year terms and the terms shall be staggered so that the terms of only three (3) voting members shall terminate

at the same time. All four-year terms shall begin on July 1 and terminate on June 30, four (4) years thereafter.

(E) (i) The governor shall also appoint ten (10) nonvoting members of the council as follows: one (1) to represent local governments, one (1) to represent insurance companies, five (5) to represent health care providers and three (3) attorneys. The nonvoting local government representative may be appointed from lists of qualified persons submitted by interested municipal and county organizations including, but not limited to, the Tennessee Municipal League and the Tennessee County Services Association. The nonvoting insurance company representative may be appointed from lists of qualified persons submitted by interested insurance organizations including, but not limited to, the Alliance of American Insurers and the American Insurance Association. One (1) nonvoting healthcare provider representative may be appointed from lists of qualified persons submitted by interested medical organizations including, but not limited to, the Tennessee Medical Association and one (1) nonvoting healthcare provider representative may be appointed from lists of qualified persons submitted by interested hospital organizations including, but not limited to, the Tennessee Hospital Association. One (1) nonvoting health care provider representative shall be a chiropractor who is licensed in this state, one (1) nonvoting health care provider representative shall be a physical therapist who is licensed in this state, and one (1) nonvoting health care provider representative shall be an occupational therapist who is licensed in this state, and these members shall not receive reimbursement for travel expenses. The nonvoting attorney members shall be appointed as follows: one (1) who shall primarily represent injured workers' compensation claimants, who may be appointed from lists of qualified persons submitted by interested justice organizations including, but not limited to, the Tennessee Association for Justice; one (1) who shall primarily represent employers or workers' compensation insurers, who may be appointed from lists of qualified persons submitted by interested defense lawyer organizations including, but not limited to, the Tennessee Defense Lawyers Association; and one (1) who may be appointed from lists of qualified persons submitted by interested legal organizations including, but not limited to the Tennessee Bar Association.

(ii) The appointing authorities shall consult with interested groups including, but not limited to, the organizations listed in subdivision (a)(E)(i) to determine qualified persons to fill positions on the council.

(F) The nonvoting members shall be appointed to four-year terms that shall begin on July 1 and terminate on June 30, four (4) years thereafter.

(G) The chair of the commerce and labor committee of the senate, the chair of the consumer and human resources committee of the house of representatives, the administrator of the division of workers' compensation and the commissioner of commerce and insurance, or their designees, shall be ex officio, nonvoting members of the council.

(2) Each voting and nonvoting member of the advisory council on workers' compensation shall, upon the expiration of the member's term, be eligible for reappointment and shall serve until a successor is appointed. In the event a member resigns or becomes ineligible for service during the member's term, a successor shall be appointed by the appropriate appointing authority to serve the remainder of the term.

(3) No employer shall discriminate in any manner against an employee who serves on the advisory council because of the employee's service. Employees who serve on the advisory council shall not be denied any benefit from their employer because of the employee's service. Travel expenses of the employee representatives on the council shall be reimbursed pursuant to subsection (b); however, employers may choose to pay the travel expenses of their employees' service on the advisory council according to their own policies.

(b) (1) Notwithstanding § 3-6-304 or any other law to the contrary, and in addition to all other requirements for membership on the council:

(A) Any person registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6 who is subsequently appointed or otherwise named as a member of the council shall terminate all employment and business association as a lobbyist with any entity whose business endeavors or professional activities are regulated by the council, prior to serving as a member of the council. This subdivision (b)(1)(A) shall apply to all persons appointed or otherwise named to the council after July 1, 2010;

(B) No person who is a member of the council shall be permitted to register or otherwise serve as a lobbyist pursuant to title 3, chapter 6 for any entity whose business endeavors or professional activities are regulated by the council during such person's period of service as a member of the council. This subdivision (b)(1)(B) shall apply to all persons appointed or otherwise named to the council after July 1, 2010, and to all persons serving on the council on such date who are not registered as lobbyists; and

(C) No person who serves as a member of the council shall be employed as a lobbyist by any entity whose business endeavors or professional activities are regulated by the council for one (1) year following the date such person's service on the council ends. This subdivision (b)(1)(C) shall apply to persons serving on the council as of July 1, 2010, and to persons appointed to the council subsequent to such date.

(2) A person who violates this subsection (b) shall be subject to the penalties prescribed in title 3, chapter 6.

(3) The bureau of ethics and campaign finance is authorized to promulgate rules and regulations to effectuate the purposes of this subsection (b). All such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and in accordance with the procedure for initiating and proposing rules by the ethics commission to the bureau of ethics and campaign finance as prescribed in § 4-55-103.

(c) In addition to all other requirements for membership on the council, all persons appointed or otherwise named to serve as members of the council after July 1, 2010, shall be residents of this state.

(d) Members of the council shall not be paid but may be reimbursed for travel expenses. All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(e) The council shall meet at least twice each year. It shall annually review workers' compensation in the state and shall issue a report of its findings and conclusions on or before July 1 of each year. The annual report shall be sent to the governor, the speakers of the house of representatives and the senate, the chair and vice-chair of the special joint committee on workers' compensation, the administrator of the division of workers' compensation, the commissioner of commerce and insurance and the clerks of the house of representatives and senate. Notice of the publication of the annual report and all other reports published by the council shall be provided to all members of the general assembly pursuant to § 3-1-114.

(f) In performing its responsibilities, the council's role shall be strictly advisory, but it may:

(1) Make recommendations to the governor, the general assembly, the special joint committee on workers' compensation, the standing committees of each house that review the status of the workers' compensation system, the administrator of the division of workers' compensation and the commissioner of commerce and insurance relating to the promulgation or adoption of legislation or rules;

(2) Make recommendations to the administrator of the division of workers' compensation and the commissioner of commerce and insurance regarding the method and form of statistical data collections; and

(3) Monitor the performance of the workers' compensation system in the implementation of legislative directives.

(g) The chair, in consultation with the voting members of the council, is authorized to retain staff and professional assistance, such as consultants and actuaries, as the chair deems necessary for the work of the council, subject to budgetary approval in the general appropriations act. For administrative purposes, the council shall be attached to the department of treasury for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit and other related items. The state treasurer shall have administrative and supervisory control over the staff assigned to assist the council. Employees of the council shall not have the status of preferred service employees pursuant to title 8. The autonomy of the council and its authority are not affected by this subsection (g).

(h) The council may develop evaluations, statistical reports and other information from which the general assembly may evaluate the impact of the legislative changes to workers' compensation law, including, but not limited to, the Reform Act of 2004 and subsequent statutory changes to this chapter.

(i) The advisory council shall issue an annual report that includes a summary of significant supreme court decisions relating to workers' compensation, including an explanation of their impact on existing policy. The report shall be due on or before January 15 of each year and shall include, to the extent possible, the decisions that were issued during the preceding calendar year. This annual report shall be sent to the governor, the speaker of the house of representatives, the speaker of the senate, the chair of the consumer and human resources committee of the house

of representatives, the chair of the commerce and labor committee of the senate, and the chair and co-chair of the special joint committee on workers' compensation. Notice of the publication of the report shall be provided to all members of the general assembly pursuant to § 3-1-114.

(j) The advisory council on workers' compensation shall, within ten (10) business days of each meeting it conducts, provide a summary of the meeting and a report of all actions taken and all actions recommended to be taken to each member of the consumer and human resources committee of the house of representatives and the commerce and labor committee of the senate.

(k) Whenever any bill is introduced in the general assembly proposing to amend this chapter or to make any change in workers' compensation law, or to make any change in the law that may have a financial or other substantive impact on the administration of workers' compensation law, the standing committee to which the bill is referred may refer the bill to the council. The council's review of bills relating to workers' compensation should include, but not be limited to, bills that propose to amend chapters 3, 6, 7, and 9 of this title, and title 56, chapters 5 and 47. All bills referred to the council shall be reported back to the standing committee to which they were assigned as quickly as reasonably possible. Notwithstanding the absence of a report from the council, the standing committee is free to consider the bill at any time. The chair making the referral shall immediately notify the prime sponsors of the referral and the council shall not review and comment on the proposed legislation until the prime sponsors have been notified. The comments of the council shall describe the potential effects of the proposed legislation on the workers' compensation system and its operations and any other information or suggestions that the council may think helpful to the sponsors, the standing committees or the general assembly. The comments of the council may include recommendations for or against passage of the proposed legislation. Other than reporting the recommendations for or against passage of proposed legislation and responding to any questions that the legislators may have, no staff of the advisory council shall lobby or advocate for or against passage of proposed legislation.

(l) The council shall study and report on the occupational health and safety of employment in Tennessee and make recommendations for safe employment education and training and promote the development of employer-sponsored health and safety programs.

§ 50-6-122. Cost control; private claims by providers; health maintenance organizations, preferred provider organizations

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) It is the intent of the general assembly that quality medical care services shall be available to injured and disabled employees. It is also the legislative intent to control increasing medical costs in workers' compensation matters by establishing cost control mechanisms to ensure cost-effective delivery of medical care services by employing a program of medical case management and a program to review the utilization and quality of medical care services.

(2) In order to assure that in workers' compensation cases quality medical care is rendered and to control medical care costs, an employer is authorized to use, but is not required to use, health maintenance organizations (HMOs) and preferred provider organizations (PPOs). An HMO or PPO may contract with medical care providers as permitted by law. The contracts are authorized to use, but are not limited to the use of, the following managed care methodologies:

(A) Medical bill review;

(B) Establishment of medical practice guidelines;

(C) Case management, subject to § 50-6-123;

(D) Utilization review, subject to § 50-6-124; and

(E) Peer review programs.

(3) Section 50-6-204(a)(3), relative to medical care, shall apply to any managed care methodology employed pursuant to this section. For the purposes of § 50-6-204(a)(3), physicians and surgeons in the same HMO or PPO are considered to be associated in practice together if they share a common employer for purposes of their clinical practice, or are associated together in a group practice.

(b) A health care provider shall not pursue a private claim against a workers' compensation claimant for all or part of the costs of health care services provided to the claimant by the provider unless:

(1) The injury is finally adjudicated not to be compensable under this chapter;

(2) The physician or surgeon, as provided in § 50-6-204, who was not authorized by the employer at the time the services were rendered, knew that the physician or surgeon was not an authorized physician or surgeon; or

(3) The employee knew that the physician or surgeon was not an authorized physician or surgeon; provided, that subdivision (b)(2) and this subdivision (b)(3) do not apply to emergency care.

(c) Deleted by 2013 Pub.Acts, c. 289, § 21, eff. July 1, 2014.

§ 50-6-123. Case management system

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator shall establish, pursuant to the administrator's rule and regulation-making authority, a system of case management for coordinating the medical care services provided to employees claiming benefits under this chapter.

(b) Employers may, at their own expense, utilize case management, and, if utilized, the employee shall cooperate with the case management. Case management shall include, but not be limited to:

(1) Developing a treatment plan to provide appropriate medical care services to an injured or disabled employee;

(2) Systematically monitoring the treatment rendered and the medical progress of the injured or disabled employee;

(3) Assessing whether alternate medical care services are appropriate and delivered in a cost-effective manner based on acceptable medical standards;

(4) Ensuring that the injured or disabled employee is following the prescribed medical care plan; and

(5) Formulating a plan for return to work with due regard for the employee's recovery and restrictions and limitations, if any.

(c) The administrator may contract with an independent organization, not owned by or affiliated with any carrier authorized to write workers' compensation insurance in the state, to assist with the administration of this section.

(d) Nothing in this section shall prevent an employer from establishing its own program of case management that meets the guidelines promulgated by the administrator in rules and regulations.

(e) Medical care, treatment, therapy or services provided at the employee's residence pursuant to this chapter, shall not be considered home health services as defined in § 68-11-201 when provided pursuant to direction of the employee's attending physician in the following specific circumstances only:

(1) By a licensed health care provider who routinely provides services to employees at the place of employment, if the services rendered by the provider at the employee's residence are of the same type rendered by the provider at the place of employment; or

(2) By a licensed physical therapist, occupational therapist or speech therapist practicing independently of a home health agency, when the employee's attending physician determines that it is in the best interest of the employee to be treated by the independent therapist because of the therapist's expertise in workplace injuries.

§ 50-6-124. Utilization review system; pre-admission review system; forfeitures and penalties

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator of the division of workers' compensation shall establish a system of utilization review of selected outpatient and inpatient health care providers to employees claiming benefits under this chapter, by providers qualified pursuant to law or the utilization review accreditation commission.

(b) The administrator shall also establish a system of pre-admission review of all hospital admissions, except for emergency services; however, utilization review pursuant to subsection (a) and this subsection (b) shall begin within one (1) working day of all emergency hospital admissions.

(c) Pursuant to the administrator's established system of utilization review, the administrator may contract with an independent utilization review organization, not owned by or affiliated with any carrier authorized to write workers' compensation insurance in the state, to provide utilization review, including peer review.

(d) Nothing in this section shall prevent an employer from electing to provide utilization review; however, if the employee, provider or any other party not contractually bound to the employer's utilization review program disagrees with that employer's

utilization review, then that employee, provider or other party shall have recourse to the administrator's utilization review program, as provided for in this section.

(e) Pursuant to the utilization review conducted by the administrator, including providing an opportunity for a hearing, any health care provider who is found by the administrator to have rendered excessive or inappropriate services may be subject to:

(1) A forfeiture of the right to payment for those services that are found to be excessive or inappropriate;

(2) A civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); or

(3) A temporary or permanent suspension of the right to provide medical care services for workers' compensation claims if the health care provider has established a pattern of violations.

(f) It is the intent of the general assembly to ensure the availability of quality medical care services for injured and disabled employees and to manage medical costs in workers' compensation matters by eradicating prescription drug abuse through the employment of the system established by subsection (a) to review any healthcare provider prescribing one (1) or more Schedule II, III, or IV controlled substances for pain management to an injured or disabled employee for a period of time exceeding ninety (90) days from the initial prescription of such controlled substances.

(g) In consultation with the administrator's medical advisory committee, the administrator shall, by rules to become effective on January 1, 2016, adopt guidelines for the diagnosis and treatment of commonly occurring workers' compensation injuries.

(h) Any treatment that explicitly follows the treatment guidelines adopted by the administrator or is reasonably derived therefrom, including allowances for specific adjustments to treatment, shall have a presumption of medical necessity for utilization review purposes. This presumption shall be rebuttable only by clear and convincing evidence that the treatment erroneously applies the guidelines or that the treatment presents an unwarranted risk to the injured worker.

(i) The administrator may assess a reasonable fee, not to exceed two hundred fifty dollars ($250), for an appeal of any utilization review decision.

§ 50-6-125. Medical payment committee

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) The administrator shall appoint a medical payment committee. The committee shall hear disputes on medical bill payments between providers and insurers and advise the administrator on issues relating to the medical fee schedule and medical care cost containment in the workers' compensation system. Upon hearing disputes on medical bill payments between providers and insurers, the medical payment committee shall have authority to render a decision on the merits of a dispute. If the medical payment committee determines that a provider or insurer has acted in bad faith in refusing to provide payment for a medical bill or refusing to provide reimbursement for overpayment, the medical payment committee, upon a majority vote, shall refer the malfeasant provider or insurer to the division for consideration of assessment of a civil penalty of no

more than one thousand dollars ($1,000) per occurrence. Any provider or insurer aggrieved by the assessment of a penalty under this subsection (a) shall have the right to seek review of the penalty assessment in the manner provided by § 50-6-118(c).

(2) The committee shall be comprised of seven (7) voting members appointed by the administrator as follows:

(A) Three (3) members shall be representative of the medical provider industry;

(B) Three (3) members shall be representative of the workers' compensation insurance industry; and

(C) The medical director shall serve as the final member of the committee but shall not cast a vote unless a vote taken by members results in a tie. In that case, the medical director shall cast the deciding vote.

(b) In making appointments, the administrator shall strive to achieve a geographic balance and, in the case of the physician members of the committee, shall assure, to the extent possible, that the membership of the committee reflects the diversity of specialties involved in the medical treatment and management of workers' compensation claimants.

(c) Members of the committee shall serve without compensation but, when engaged in the conduct of their official duties as members of the committee, shall be entitled to reimbursement for travel expenses in accordance with uniform regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d) Each member appointed shall serve a term of four (4) years and may be reappointed by the administrator. If a member leaves the position prior to the expiration of the term, the administrator shall appoint an individual meeting the qualifications of this section to serve the unexpired portion of the term, and the individual may be reappointed by the administrator upon expiration of the term.

(e) This section applies to all disputes of medical bill payments for services provided, pursuant to this chapter, on or after July 1, 2014.

§ 50-6-126. Medical director; powers and duties

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

The administrator shall appoint a medical director who shall be the executive secretary and a nonvoting ex officio member of the medical committee. The medical director shall be appointed from a list of three (3) nominees submitted by the Tennessee Medical Association. If the administrator finds the list of three (3) nominees to be unsatisfactory, then the administrator shall return the list to the Tennessee Medical Association and the association shall submit another list of nominees. This process shall be repeated, if necessary, until the administrator selects a nominee to be medical director. The medical director may be a part-time employee, a full-time employee or a contract employee, and shall perform the following functions for which the medical director shall be responsible to the administrator or medical care and cost containment committee, as appropriate:

(1) Institute administrative procedures that will enable the medical director to evaluate medical care to effect optimal treatment in workers' compensation cases;

(2) Inquire into instances where the medical treatment or the physical rehabilitation provided appears to be deficient or incomplete and recommend corrective action when indicated;

(3) Advise on the disposition of complaints of a physician's failure to furnish adequate medical care as required by this law or by rules and regulations adopted by the administrator, the disposition of complaints concerning other aspects of the medical management of a workers' compensation case or the failure to render required reports, and the disposition of complaints of any affected party as to unreasonable interference with the medical management of a workers' compensation case;

(4) Gather data and maintain records necessary to fulfill the medical director's responsibilities;

(5) Conduct studies and prepare and issue reports on the medical aspect of workers' compensation cases;

(6) Expedite the submission and processing of medical reports necessary to the processing of claims;

(7) Advise health care providers of their rights and responsibilities under this chapter and under any rules or regulations promulgated pursuant to this chapter;

(8) Advise the medical care and cost containment committee as to the reasonableness of fees for medical services in particular cases; and

(9) Undertake other functions that may be delegated to the medical director by the administrator.

§ 50-6-127. Fraud; investigations

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator, in consultation with the commissioner of commerce and insurance and appropriate law enforcement officials, shall implement a public awareness program concerning workers' compensation fraud.

(b) The division of workers' compensation shall investigate to determine whether any fraudulent conduct relating to workers' compensation is being practiced, and shall refer to an appropriate law enforcement agency any finding of fraud.

§ 50-6-128. Compensable claims paid under health or sickness and accident insurance; fines and penalties

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

If any employer knowingly, willfully, and intentionally causes a medical or wage loss claim to be paid under health or sickness and accident insurance, or fails to provide

reasonable and necessary medical treatment, including a failure to reimburse when the employer knew that the claim arose out of a compensable work-related injury and should have been submitted under its workers' compensation insurance coverage, then a civil penalty of five hundred dollars ($500) shall be assessed against the employer, and the employer may not offset any sickness and accident income benefit paid to the employee against its temporary total disability benefit payment liability due to the employee pursuant to this chapter. The administrator of the division of workers' compensation has the authority to assess and collect the civil penalty.

§ 50-6-131. Confidentiality of medical records

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

Medical records provided to the division of workers' compensation in the course of its activities and the review of settlements pursuant to this chapter shall remain confidential and shall not be considered to be public records.

§ 50-6-132. Employers failing to provide coverage or qualify as self-insured employer; report

Effective: April 19, 2013

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

No later than December 31 of each year, the division of workers' compensation shall produce a report that includes a listing of the name of each covered employer that failed, during the preceding state fiscal year, to provide workers' compensation coverage or qualify as a self-insured employer as required by law. Only those employers whose failure resulted in periods of non-coverage shall be included within the report. The report shall also include the penalty assessed by the division and the payment status of the penalty. The report shall be provided to the advisory council on workers' compensation and the chairs of the commerce and labor committee of the senate and the consumer and human resources committee of the house of representatives.

§ 50-6-134. Review of act; report

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

The division shall, on or before July 1, 2015, and annually thereafter, review the impact of the Workers' Compensation Reform Act of 2013 on the workers' compensation system in this state and deliver a report of its findings to each member of the general assembly.

§ 50-6-135. Medical advisory committee

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014.>

(a) (1) The administrator shall appoint a medical advisory committee comprised of practitioners in the medical community having experience in the treatment of workers' compensation injuries, representatives of the insurance industry, employer representatives, and employee representatives to assist the administrator in the development of treatment guidelines and advise the administrator on issues relating to medical care in the workers' compensation system.

(2) The medical director shall serve as a nonvoting ex-officio member of the committee.

(b) In making appointments, the administrator shall strive to achieve a geographic balance and, in the case of the physician members of the committee, shall assure, to the extent possible, that the membership of the committee reflects the diversity of specialties involved in the medical treatment and management of workers' compensation claimants.

(c) Members of the committee shall serve without compensation but, when engaged in the conduct of their official duties as members of the committee, shall be entitled to reimbursement for travel expenses in accordance with uniform regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(d) Each member appointed shall serve a term of four (4) years and may be reappointed by the administrator. If a member leaves the position prior to the expiration of the term, the administrator shall appoint an individual meeting the qualifications of this section to serve the unexpired portion of the term. The individual may be reappointed by the administrator upon expiration of the term.

§ 50-6-201. Notice of injury; wage statement

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) Every injured employee or the injured employee's representative shall, immediately upon the occurrence of an injury, or as soon thereafter as is reasonable and practicable, give or cause to be given to the employer who has no actual notice, written notice of the injury, and the employee shall not be entitled to physician's fees or to any compensation that may have accrued under this chapter, from the date of the accident to the giving of notice, unless it can be shown that the employer had actual knowledge of the accident. No compensation shall be payable under this chapter, unless the written notice is given to the employer within thirty (30) days after the occurrence of the accident, unless reasonable excuse for failure to give the notice is made to the satisfaction of the tribunal to which the claim for compensation may be presented.

(2) The notice of the occurrence of an accident by the employee required to be given to the employer shall state in plain and simple language the name and

address of the employee and the time, place, nature, and cause of the accident resulting in injury or death. The notice shall be signed by the claimant or by some person authorized to sign on the claimant's behalf, or by any one (1) or more of the claimant's dependents if the accident resulted in death to the employee.

(3) No defect or inaccuracy in the notice shall be a bar to compensation, unless the employer can show, to the satisfaction of the workers' compensation judge before which the matter is pending, that the employer was prejudiced by the failure to give the proper notice, and then only to the extent of the prejudice.

(4) The notice shall be given personally to the employer or to the employer's agent or agents having charge of the business at which the injury was sustained by the employee.

(b) In those cases where the injuries occur as the result of gradual or cumulative events or trauma, then the injured employee or the injured employee's representative shall provide notice of the injury to the employer within thirty (30) days after the employee:

(1) Knows or reasonably should know that the employee has suffered a work-related injury that has resulted in permanent physical impairment; or

(2) Is rendered unable to continue to perform the employee's normal work activities as the result of the work-related injury and the employee knows or reasonably should know that the injury was caused by work-related activities.

(c) Deleted by 2013 Pub.Acts, c. 289, § 29, eff. July 1, 2014.

§ 50-6-202. Electronic submission and processing of medical bills by health care providers to insurance carriers; rules

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) On or after July 1, 2014, the administrator, in cooperation with the commissioner of commerce and insurance, shall adopt rules regarding the electronic submission and processing of medical bills by health care providers to insurance carriers.

(b) Insurance carriers shall accept medical bills submitted electronically by health care providers in accordance with the administrator's rules.

(c) The administrator shall establish by rule the criteria for granting exceptions to insurance carriers and health care providers who are unable to submit or accept medical bills electronically.

§ 50-6-203. Limitation period

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) No request for a hearing by a workers' compensation judge under this chapter shall be filed with the court of workers' compensation claims, other than a request for settlement approval, until a workers' compensation mediator has issued a dispute certification notice certifying issues in dispute for hearing before a workers' compensation judge.

(b) (1) In instances when the employer has not paid workers' compensation benefits to or on behalf of the employee, the right to compensation under this chapter shall be forever barred, unless the notice required by § 50-6-201 is given to the employer and a petition for benefit determination is filed with the division on a form prescribed by the administrator within one (1) year after the accident resulting in injury.

(2) In instances when the employer has voluntarily paid workers' compensation benefits, within one (1) year following the accident resulting in injury, the right to compensation is forever barred, unless a petition for benefit determination is filed with the division on a form prescribed by the administrator within one (1) year from the latter of the date of the last authorized treatment or the time the employer ceased to make payments of compensation to or on behalf of the employee.

(c) For purposes of this section, the issuing date of the last payment of compensation by the employer, not the date of its receipt, shall constitute the time the employer ceased making payments and an employer or its insurer shall provide the date on request.

(d) In case of physical or mental incapacity, other than minority, of the injured person or the injured person's dependents to perform or cause to be performed any action required within the time specified in this section, then the period of limitation in the case shall be extended for one (1) year from the date when the incapacity ceases.

(e) (1) Unless a claim for death benefits is settled or voluntarily paid, the dependent or dependents of a deceased employee shall file a petition for benefit determination on a form prescribed by the administrator within one (1) year after the date of the employee's death.

(2) In the event the deceased employee was a native of a foreign country and leaves no known dependent or dependents within the United States, it shall be the duty of the administrator to give written notice forthwith of the death to the duly accredited consular officer of the country of which the beneficiaries are citizens.

(f) If the employee fails to appear and participate in alternative dispute resolution as scheduled by the division, a workers' compensation judge shall have the authority to dismiss the employee's claim by sending a copy of the order of dismissal by certified mail with return receipt requested to the employee's last known address. The order of dismissal for failure to participate in alternative dispute resolution shall become final and the claim shall be forever barred, unless the employee contacts the division to schedule mediation and attends mediation within sixty (60) days after the date on which the workers' compensation judge enters the order of dismissal. If the employee complies with the requirements of this subsection (f) within the timeframe provided, the workers' compensation judge shall rescind the order dismissing the employee's claim for failure to participate in alternative dispute resolution.

(g) Deleted by 2013 Pub.Acts, c. 289, § 34, eff. July 1, 2014.

(h) Deleted by 2013 Pub.Acts, c. 289, § 34, eff. July 1, 2014.

(i) Proceedings to obtain a judgment in the case of the failure of the employer for thirty (30) days to pay any compensation due under any settlement or determination shall be filed within one (1) year after the default.

§ 50-6-204. Medical care and treatment; request for information; burial expenses; physical examinations

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) (A) The employer or the employer's agent shall furnish, free of charge to the employee, such medical and surgical treatment, medicine, medical and surgical supplies, crutches, artificial members, and other reasonable and necessary apparatus, including prescription eyeglasses and eye wear, such nursing services or psychological services as ordered by the attending physician and hospitalization, including such dental work made reasonably necessary by accident as defined in this chapter.

(B) No medical provider shall charge more than ten dollars ($10.00) for the first twenty (20) pages or less, and twenty-five cents (25¢) per page for each page after the first twenty (20) pages, for any medical reports, medical records or documents pertaining to medical treatment or hospitalization of the employee that are furnished pursuant to this subsection (a).

(2) (A) It is the intent of the general assembly that the administration of the workers' compensation system proceed in a timely manner and that the parties and the division have reasonable access to the employee's medical records and medical providers that are pertinent to and necessary for the efficient resolution of the employee's workers' compensation claim in a timely manner. To that end, employers or case managers may communicate with the employee's authorized treating physician, orally or in writing, and each medical provider shall be required to release the records of any employee treated for a work-related injury to both the employer and the employee within thirty (30) days after admission or treatment. There shall be no implied covenant of confidentiality with respect to those records, which will include all written memoranda or visual or recorded materials, e-mails and any written materials provided to the employee's authorized treating physician, by case managers, employers, insurance companies, or their attorneys or received from the employee's authorized treating physician.

(B) For purposes of subdivision (a)(2), "employer" means the employer, the employer's attorney, the employer's insurance carrier or third party administrator, a case manager as authorized by § 50-6-123, or any utilization review agent as authorized by § 50-6-124 during the employee's treatment for the claimed workers' compensation injury.

(C) If the division becomes involved in the appeal of a utilization review issue, then the division is authorized to communicate with the medical provider involved in the dispute, either orally or in writing, to permit the timely resolution of the issue and shall notify the employee, employer, and any attorney representing the employee or employer that they may review or copy the documents and responses. Each party requesting copies of records shall pay a fee authorized by subdivision (a)(1)(B) prior to the division providing the requested copies.

(D) No relevant information developed in connection with authorized medical treatment or an examination provided pursuant to this section for which compensation is sought by the employee shall be considered a privileged communication, and no medical provider shall incur any liability as a result of providing medical information, records, opinions, or reports as described in subdivision (a)(2)(C); provided, that the medical provider complies with subdivision (a)(2)(C).

(3) (A) (i) The injured employee shall accept the medical benefits afforded under this section; provided that in any case when the employee has suffered an injury and expressed a need for medical care, the employer shall designate a group of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups if available in the injured employee's community or, if not so available, in accordance with subdivision (a)(3)(B), from which the injured employee shall select one (1) to be the treating physician.

(ii) When necessary, the treating physician selected in accordance with this subdivision (a)(3)(A) shall make referrals to a specialist physician, surgeon, or chiropractor and immediately notify the employer. The employer shall be deemed to have accepted the referral, unless the employer, within three (3) business days, provides the employee a panel of three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups. In this case, the employee may choose a specialist physician, surgeon, chiropractor or specialty practice group to provide treatment only from the panel provided by the employer.

(iii) The liability of the employer for the services provided to the employee shall be limited to the maximum allowable fees that are established in the applicable medical fee schedule adopted pursuant to this section.

(iv) The division shall have authority to waive subdivision (a)(3)(A)(iii) when necessary to provide treatment for an injured employee.

(B) If three (3) or more independent reputable physicians, surgeons, chiropractors or specialty practice groups are not available in the employee's community, the employer shall provide a list of three (3) independent reputable physicians, surgeons, chiropractors or specialty practice groups, within a one hundred (100) mile radius of the employee's community.

(C) When the treating physician or chiropractor refers the injured employee, the employee shall be entitled to have a second opinion on the issue of surgery and diagnosis from a physician or chiropractor from a panel of two (2) physicians practicing in the same specialty as the physician who recommended the surgery. In cases where the employer has provided a panel of specialists pursuant to subdivision (a)(3)(A)(i) of this section, the employee may choose one (1) of the two (2) remaining specialists to provide a second opinion on the issue of surgery and diagnosis. The employee's decision to obtain a second opinion shall not alter the previous selection of the treating physician or chiropractor.

(D) (i) The employer shall provide the applicable panel of physicians or chiropractors to the employee in writing on a form prescribed by the division, and the employee shall select a physician or chiropractor from the panel, sign and date the completed form, and return the form to the employer. The employer shall provide a copy of the completed form to the employee and shall maintain a copy of the completed form in the records of the employer and shall produce a copy of the completed form upon request by the division.

(ii) In any case when the employee has been presented the physician selection form but has failed to sign the completed form and return it to the employer, the employee's receipt of treatment from any physician provided in the panel after the date the panel was provided shall constitute acceptance of the panel and selection of the physician from whom the employee received treatment as the treating physician, specialist physician, chiropractor or surgeon.

(E) In all cases where the treating physician has referred the employee to a specialist physician, surgeon, chiropractor or specialty practice group, the specialist physician, surgeon, or chiropractor to which the employee has been referred, or selected by the employee from a panel provided by the employer, shall become the treating physician until treatment by the specialist physician, surgeon, or chiropractor concludes and the employee has been referred back to the treating physician selected by the employee from the initial panel provided by the employer under subdivision (a)(3)(A).

(F) In all cases when an employee changes the employee's community of residence after selection of a physician under this subdivision (a)(3), the employer shall provide the employee, upon written request, a new panel of reputable physicians, surgeons, chiropractors or specialty practice groups, as provided in subdivision (a)(3)(A), from which the injured employee shall select one (1) to be the treating physician.

(G) If any physician, surgeon, chiropractor or specialty practice group included on a panel provided to an employee under this subsection declines to accept the employee as a patient for the purpose of providing treatment to the employee for his workers' compensation injury, the employee may either select a physician from the remaining physicians, surgeons or chiropractors included on the initial panel provided to the employee pursuant to subdivision (a)(3)(A) or request that the employer provide an additional choice of a physician, surgeon, chiropractor or specialty practice group to replace the physician, surgeon or chiropractor who refused to accept the injured employee as a patient for the purpose of treating the employee's workers' compensation injury.

(H) Any treatment recommended by a physician or chiropractor selected pursuant to this subdivision (a)(3) or by referral, if applicable, shall be presumed to be medically necessary for treatment of the injured employee.

(I) Following the adoption of treatment guidelines pursuant to § 50-6-124, the presumption of medical necessity for treatment recommended by a physician or chiropractor selected pursuant to this subsection or by referral, if applicable, shall be rebuttable only by clear and convincing evidence dem-

onstrating that the recommended treatment substantially deviates from, or presents an unreasonable interpretation of, the treatment guidelines.

(4) Deleted by 2013 Pub.Acts, c. 289, § 38, eff. July 1, 2014.

(5) Deleted by 2013 Pub.Acts, c. 289, § 39, eff. July 1, 2014.

(6) (A) When an injured worker is required by the worker's employer to travel to an authorized medical provider or facility located outside a radius of fifteen (15) miles from the insured worker's residence or workplace, then, upon request, the employee shall be reimbursed for reasonable travel expenses. The injured employee's travel reimbursement shall be calculated based on a per mile reimbursement rate, as defined in subdivision (a)(6)(B), times the total round trip mileage as measured from the employee's residence or workplace to the location of the medical provider's facility. The definition of community as contemplated by this subdivision (a)(6)(A) shall apply only for the purposes of this section.

(B) The per mile reimbursement rate for the injured employee shall be no less than the mileage allowance authorized for state employees who have been authorized to use personally owned vehicles in the performance of their duties. This minimum per mile reimbursement rate shall be based on the last published comprehensive travel regulations promulgated by the department of finance and administration.

(b) (1) Where the nature of the injury or occupational disease, as defined in § 50-6-102, is such that it does not disable the employee but reasonably requires medical, surgical, psychological or dental treatment or care, medicine, surgery, dental and psychological treatment, medicine, medical and surgical supplies, crutches, artificial members, and other apparatus shall be furnished by the employer.

(2) Deleted by 2013 Pub.Acts, c. 289, § 40, eff. July 1, 2014.

(c) In case death results from the injury or occupational disease, as defined in § 50-6-102, the employer shall, in addition to the medical services, etc., referred to in subsections (a) and (b), pay the burial expenses of the deceased employee, not exceeding seven thousand five hundred dollars ($7,500). If the deceased employee leaves no dependents entitled to compensation under this chapter, the employer shall pay to the employee's estate the additional benefits provided in § 50-6-209(b)(2) and (3), and shall also be liable for the medical and hospital services and burial expenses provided for in this section.

(d) (1) The injured employee must submit to examination by the employer's physician at all reasonable times if requested to do so by the employer, but the employee shall have the right to have the employee's own physician present at the examination, in which case the employee shall be liable to the employee's physician for that physician's services.

(2) Any medical report submitted to the employer based upon the examination, or a true copy of the report, shall be furnished by the employer to the employee upon request; provided, that the employer may, in the employer's discretion, furnish the report to the attorney for the employee or to a member of the employee's family.

(3) Deleted by 2013 Pub.Acts, c. 289, § 41, eff. July 1, 2014.

(4) The employer shall pay for the services of the physician making the examination at the instance of the employer.

(5) When a dispute as to the degree of medical impairment exists, either party may request an independent medical examiner from the administrator's registry. If the parties are unable to mutually agree on the selection of an independent medical examiner from the administrator's registry, it shall be the responsibility of the employer to provide a written request to the administrator for assignment of an independent medical examiner with a copy of the notice provided to the other party. Upon receipt of the written request, the administrator shall provide the names of three (3) independent medical examiners chosen at random from the registry. No physician may serve as an independent medical examiner in a case and serve on any panel of providers selected under this section for the employer involved in such case. The administrator shall immediately notify the parties by facsimile or e-mail when the list of independent medical examiners has been assigned to a matter, but in any event the notification shall be made within five (5) business days of the date of the request. The employer may strike one (1) name from the list, with the rejection made and communicated to the other party by facsimile or e-mail no later than the third business day after the date on which notification of the list is provided. The employee shall select a physician to perform the independent medical examination from the remaining physicians on the list. All costs and fees for an independent medical examination and report made pursuant to this subdivision (d)(5) shall be paid by the employer. The written opinion as to the permanent impairment rating given by the independent medical examiner pursuant to this subdivision (d)(5) shall be presumed to be the accurate impairment rating; provided, however, that this presumption may be rebutted by clear and convincing evidence to the contrary.

(6) The administrator shall establish by rule, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, an independent medical examiners registry. The administrator shall establish qualifications for the independent medical examiners, including continuing education and peer review requirements, with the advice of the Tennessee Medical Association and the advisory council on workers' compensation, established by § 50-6-121. The rules established shall include, but not be limited to, qualifications and procedures for submission of an application for inclusion on the registry, procedures for the review and maintenance of the registry, and procedures for assignment that ensures that the composition of the panels is random.

(7) Whenever the nature of the injury is such that specialized medical attention is required or indicated and the specialized medical attention is not available in the community in which the injured employee resides, the injured employee can be required to go, at the request of and at the expense of the employer, to the nearest location at which the specialized medical attention is available.

(8) If the injured employee refuses to comply with any reasonable request for examination or to accept the medical or specialized medical services that the employer is required to furnish under this chapter, the injured employee's right to compensation shall be suspended and no compensation shall be due and payable while the injured employee continues to refuse.

(9) For accidents or injuries occurring on or after July 1, 2005, in case of a dispute as to the injury, other than disputes as to the degree of medical impairment, the court may, at the instance of either party or on its own motion, appoint a neutral physician of good standing and ability to make an examination of the injured person and report the physician's findings to the court, the expense of which examination shall be borne equally by the parties.

(e) In all death claims where the cause of death is obscure or is disputed, any interested party may require an autopsy, the cost of which is to be borne by the party demanding the autopsy.

(f) Any physician whose services are furnished or paid for by the employer and who treats or makes or is present at any examination of an injured employee may be required to testify as to any knowledge acquired by the physician in the course of the treatment or examination as the treatment or examination relates to the injury or disability arising therefrom.

(g) (1) If an emergency, or on account of the employer's failure or refusal to provide the medical care and services required by this law, the injured employee or the injured employee's dependents may provide the medical care and services, and the cost of the medical care and services, not exceeding three hundred dollars ($300), shall be borne by the employer; provided, that the pecuniary liability of the employer shall be limited to the charges for the service that prevail in the community where the services are rendered.

(2) (A) If an employer does not provide medical care and treatment, medical services or medical benefits, or both, that an employee contends should be provided as a result of a judgment or decree entered by a workers' compensation judge following a workers' compensation trial or as a result of a workers' compensation settlement agreement, either the employee or the employer, or the attorney for the employee or employer, shall request the assistance of a workers' compensation mediator to determine whether such medical care and treatment, medical services or medical benefits, or both, are appropriate by filing a petition for benefit determination and participating in alternative dispute resolution as provided in § 50-6-236. If the parties do not resolve the dispute by agreement, either party may file a request for a hearing and submit the dispute to a workers' compensation judge for resolution after the workers' compensation mediator has issued a dispute certification notice in accordance with § 50-6-236.

(B) A workers' compensation judge shall have the authority to determine whether it is appropriate to order the employer or the employer's insurer to provide specific medical care and treatment, medical services or medical benefits, or both, to the employee pursuant to a judgment or decree entered by a judge following a workers' compensation trial or pursuant to a workers' compensation settlement agreement approved by a workers' compensation judge pursuant to § 50-6-240. The workers' compensation judge's authority shall include, but is not limited to, the authority to order specific medical care and treatment, medical services or medical benefits, or both. The authority of a workers' compensation judge to order the provision of benefits under this section shall include authority to order specific medical care and treatment, medical services or medical benefits,

or both for all settlements approved by the department, the division, the commissioner, the commissioner's designee or a workers' compensation specialist, even if the settlement was approved under prior law.

(h) All psychological or psychiatric services available under subdivisions (a)(1) and (b)(1) shall be rendered only by psychologists or psychiatrists and shall be limited to those ordered upon the referral of physicians authorized under subdivision (a)(4).

(i) (1) The administrator, in consultation with the medical care and cost containment committee and the advisory council on workers' compensation, is authorized to establish by rule, in accordance with the Uniform Administrative Procedures Act, a comprehensive medical fee schedule and a related system that includes, but is not limited to, procedures for review of charges, enforcement procedures and appeal hearings to implement the fee schedule. In developing the rules, the administrator shall strive to assure the delivery of quality medical care in workers' compensation cases and access by injured workers to primary and specialist care while controlling prices and system costs. The medical care fee schedule shall be comprehensive in scope and shall address fees of physicians and surgeons, hospitals, prescription drugs, and ancillary services provided by other health care facilities and providers. The administrator may consider any and all reimbursement systems and methodologies in developing the fee schedule, except that, in no event shall the fee schedule set forth differing rates for reimbursement or conversion factors for reimbursement of physical or occupational therapy services based or dependent on whether the services are performed in independently-owned facilities or physician-affiliated facilities, and shall not otherwise consider the physician ownership in the facility providing services. However, differing reimbursement rates may be implemented by the administrator upon the department's presentation of state data demonstrating there is a need for differing reimbursement rates for physical/occupational therapy services and upon the department's holding a public hearing on the issue.

(2) The administrator is authorized to retain experts to assist in the development of the fee schedule and related system in accordance with the contracting rules of the department of finance and administration.

(3) The administrator, in consultation with the medical care and cost containment committee and the advisory council on workers' compensation, shall review the fee schedules adopted pursuant to this section on an annual basis and when appropriate the administrator shall revise the fee schedules as necessary. It is the intent of the general assembly that this annual review consider, among other factors, the medical consumer price index.

(4) The comprehensive medical fee schedule adopted pursuant to this subsection (i) is not intended to prohibit an employer, trust or pool, or insurer from negotiating lower fees in its own medical fee agreements.

(j) (1) If a treating physician determines that pain is persisting for an injured or disabled employee beyond an expected period for healing, the treating physician may either prescribe, if the physician is a qualified physician as defined in subdivision (j)(2)(B), or refer, such injured or disabled employee for pain management encompassing pharmacological, nonpharmacological and other approaches to manage chronic pain.

(2) (A) In the event that a treating physician refers an injured or disabled employee for pain management, the employee is entitled to a panel of qualified physicians as provided in subdivision (a)(4) except that, in light of the variation in availability of qualified pain management resources across the state, if the office of each qualified physician listed on the panel is located not more than one hundred seventy-five (175) miles from the injured or disabled employee's residence or place of employment, then the community requirement of subdivision (a)(4) shall not apply for the purposes of pain management.

(B) For the purposes of the panel required by subdivision (j)(2)(A), "qualified physician" means an individual licensed to practice medicine or osteopathy in this state and:

(i) Board certified in anesthesiology, neurological surgery, orthopedic surgery, radiology or physical medicine and rehabilitation through the:

(a) American Board of Medical Specialties (ABMS);

(b) American Osteopathic Association (AOA); or

(c) Another organization authorized by the administrator;

(ii) Board certified by an organization listed in subdivision (j)(2)(B)(i)(a)-(c) in a specialty other than a specialty listed in subdivision (j)(2)(B)(i) and who has completed an ABMS or AOA subspecialty board in pain medicine, or completed an Accreditation Council for Graduate Medical Education (ACGMA) accredited pain fellowship; or

(iii) Serving as a clinical instructor in pain management at an accredited Tennessee medical training program.

(3) The injured or disabled employee is not entitled to a second opinion on the issue of impairment, diagnosis or prescribed treatment relating to pain management. However, on no more than one (1) occasion, if the injured or disabled employee submits a request in writing to the employer stating that the prescribed pain management fails to meet medically accepted standards, then the employer shall initiate and participate in utilization review as provided in this chapter for the limited purpose of determining whether the prescribed pain management meets medically accepted standards.

(4) (A) As a condition of receiving pain management that requires prescribing Schedule II, III, or IV controlled substances, the injured or disabled employee may sign a formal written agreement with the physician prescribing the Schedule II, III, or IV controlled substances acknowledging the conditions under which the injured or disabled employee may continue to be prescribed Schedule II, III, or IV controlled substances and agreeing to comply with such conditions.

(B) If the injured or disabled employee violates any of the conditions of the agreement on more than one (1) occasion, then:

(i) The employee's right to pain management through the prescription of Schedule II, III, or IV controlled substances under this chapter shall be terminated and the injured or disabled employee shall no longer

be entitled under this chapter to the prescription of such substances for the management of pain;

(ii) For injuries occurring on or after July 1, 2012, the violation shall be deemed to be misconduct connected with the employee's employment for purposes of § 50-6-241(d); and

(iii) For injuries occurring on or after July 1, 2012, in the event such violation occurs prior to a finding that the injured or disabled employee is totally disabled as provided in § 50-6-207(4), through either a judgment or decree entered by a court following a workers' compensation trial or a settlement agreement approved pursuant to § 50-6-206, the incapacity to work due to lack of pain management shall not be considered when determining whether the injured employee is entitled to permanent total disability benefits as provided in § 50-6-207(4).

(C) A physician may disclose the employee's violation of the formal written agreement on the physician's own initiative. Upon request of the employer, a physician shall disclose the employee's violation of the formal written agreement as provided in this section.

(D) The formal written agreement shall include a notice to the employee in capitalized, conspicuous lettering on the face of the agreement the consequences for violating the terms of the agreement as provided for in this subsection (j).

(E) (i) If an employer terminates an injured or disabled employee's right under this chapter to pain management through the prescription of Schedule II, III, or IV controlled substances pursuant to alleged violations of the formal agreement as provided in subdivision (j)(4)(B), then the employee may file a petition for benefit determination.

(ii) If an employer or insurer alleges that an injured or disabled employee is not entitled to reconsideration under § 50-6-241(d) or permanent total disability benefits as provided in § 50-6-207(4) because of the employee's alleged violations of the formal agreement as provided in subdivision (j)(4)(B), then a court shall also determine whether such violations occurred.

(5) Prescribing one (1) or more Schedule II, III, or IV controlled substances for pain management treatment of an injured or disabled employee for a period of time exceeding ninety (90) days from the initial prescription of any such controlled substances is considered to be medical care services for the purposes of utilization review as provided in this chapter. The department is authorized to impose a fee for the administration of an appeal process for utilization review under this subdivision (j)(5) and subdivision (j)(3).

(k) (1) All permanent impairment ratings shall be assigned by the treating physician or chiropractor.

(2) (A) The treating physician or chiropractor shall utilize the applicable edition of the AMA guides as established by this chapter.

(B) The medical advisory committee shall, within six (6) months of the release of a new edition, conduct an evaluation of the new edition, report the

committee's findings to the administrator and recommend to the administrator whether the new edition should be designated for application to this chapter. The administrator shall report the committee's findings and recommendation to the general assembly. The AMA guides, as defined in § 50-6-102, shall remain in effect until a new edition is designated by the general assembly.

(C) No impairment rating, whether contained in a medical record, medical report, including a medical report pursuant to § 50-6-235(c), deposition, or oral expert opinion testimony shall be accepted during alternative dispute resolution proceedings or be admissible into evidence at the trial of a workers' compensation claim unless the impairment rating is based on the applicable edition of the AMA guides or, in cases not covered by the AMA guides, an impairment rating by any appropriate method used and accepted by the medical community.

(3) The treating physician or chiropractor shall assign impairment ratings as a percentage of the body as a whole and shall not consider complaints of pain in calculating the degree of impairment, notwithstanding allowances for pain provided by the applicable edition of the AMA guides as established by this chapter.

(4) The treating physician or chiropractor shall evaluate the employee for purposes of assigning an impairment rating and the employee shall attend the evaluation. An employee who fails to attend a scheduled evaluation without justifiable cause shall be subject to sanctions up to and including dismissal of the employee's claim for workers' compensation benefits.

(5) Scheduling of the evaluation shall occur within time limits and according to procedures promulgated by the administrator by rule.

(6) The treating physician or chiropractor shall complete the evaluation and submit an impairment rating report, on a form prescribed by the administrator, within time limits imposed by the administrator through the promulgation of rules.

(7) The treating physician's or chiropractor's written opinion of the injured employee's permanent impairment rating shall be presumed to be the accurate impairment rating. This presumption shall be rebuttable by the presentation of contrary evidence that satisfies a preponderance of the evidence standard.

§ 50-6-205. Commencement of compensation; total amount of compensation; notice

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) No compensation shall be allowed for the first seven (7) days of disability resulting from the injury, excluding the day of injury, except the benefits provided for in § 50-6-204, but if disability extends beyond that period, compensation shall commence with the eighth day after the injury. In the event, however, that the disability from the injury exists for a period as long as fourteen (14) days, then compensation shall be allowed beginning with the first day after the injury.

(b) (1) The total amount of compensation payable under this part shall not exceed the maximum total benefit, as that benefit is defined in § 50-6-102, in any case, exclusive of travel reimbursement, medical, hospital and funeral benefits.

(2) Compensation shall be paid promptly. The first payment shall be due and payable within fifteen (15) days after the employer has knowledge of any disability or death, and thereafter compensation shall be paid to the employee or the employee's dependents semimonthly. Evidence of the initiation or denial of the compensation is inadmissible in a subsequent proceeding concerning the issue of the compensability of injury.

(3) (A) In addition to any other penalty provided by law, if an employer, trust or pool or an employer's insurer fails to pay, or untimely pays, temporary disability benefits within twenty (20) days after the employer has knowledge of any disability that would qualify for benefits under this chapter, a workers' compensation judge shall have the authority to assess against the employer, trust or pool or the employer's insurer a civil penalty in addition to the temporary disability benefits that are due to the employee. The penalty, if assessed, shall be in an amount equal to twenty-five percent (25%) of the temporary disability benefits that were not paid in accordance with this subsection (b). Furthermore, the penalty may be assessed as to all temporary disability benefits that are determined not to be paid in compliance with this subsection (b).

(B) Prior to the assessment of any civil penalty, the judge shall issue a written request to the employer or insurance carrier to provide documentation as to why the civil penalty should not be assessed.

(C) If the judge determines the employer or insurer was not in compliance with this subsection (b), the judge shall issue a written order that assesses the penalty in a specific dollar amount to be paid directly to the employee. If the employer or insurer fails to comply with the order within fifteen (15) calendar days of that order's becoming final, the employer or insurer shall be subject to penalties as set forth in § 50-6-238(d).

(D) In any civil action filed pursuant to this chapter, the court shall have the authority to assess penalties as provided in this subdivision (b)(3).

(c) (1) Upon making the first payment of benefits, and upon stopping or changing the benefits for any cause other than final settlement, or upon denying a claim after proper investigation, the employer's insurance carrier or the employer, if self-insured, shall immediately notify the administrator, on a form prescribed by the administrator, that the payment of income benefits has begun or has been stopped or changed.

(2) Deleted by 2013 Pub.Acts, c. 289, § 45, eff. July 1, 2014.

(d) (1) If payments have been made without an award, and the employer subsequently elects to controvert the employer's liability, notice of controversy shall be filed with the administrator within fifteen (15) days of the due date of the first omitted payment.

(2) In such cases, the prior payment of compensation shall not be considered a binding determination of the obligations of the employer as to future compensation payments.

(3) Likewise, the acceptance of compensation by the employee shall not be considered a binding determination of the obligations of the employer as to future compensation payments; nor shall the acceptance of compensation by the employee be considered a binding determination of the employee's rights.

§ 50-6-207. Schedule of compensation

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

The following is the schedule of compensation to be allowed employees under this chapter:

(1) TEMPORARY TOTAL DISABILITY.

(A) For injury producing temporary total disability, sixty-six and two thirds percent (66 ⅔ %) of the average weekly wages as defined in this chapter, subject to the maximum weekly benefit and minimum weekly benefit; provided, that if the employee's average weekly wages are equal to or greater than the minimum weekly benefit, the employee shall receive not less than the minimum weekly benefit; and provided, further, that if the employee's average weekly wages are less than the minimum weekly benefit, the employee shall receive the full amount of the employee's average weekly wages, but in no event shall the compensation paid be less than the minimum weekly benefit. Where a fractional week of temporary total disability is involved, the compensation for each day shall be one seventh (1/7) of the amount due for a full week;

(B) (i) An employer may choose to continue to compensate an injured employee at the employee's regular wages or salary during the employee's period of temporary total and temporary partial disability. The payments shall not result in an employee's receiving less than the employee would otherwise receive for temporary disability benefits under this chapter; however, a court or the department has no authority to require an employer to pay any temporary disability benefits required by subdivision (1)(A), in addition to the employee's regular wages or salary;

(ii) When an employee receives payments under subdivision (1)(B)(i) and the employee's claim for compensation under this chapter is determined by a court or settlement to be compensable, the employer shall be given credit for the payments. The credit shall be no more than the employee would have been otherwise paid under subdivision (1)(A), and any amount paid beyond the amount that would have otherwise been paid under subdivision (1)(A) shall not be credited against any award for permanent disability;

(C) Any person who has drawn unemployment compensation benefits and who subsequently receives compensation for temporary disability benefits under a workers' compensation law with respect to the same period shall be required to repay the unemployment compensation benefits; provided,

that the amount to be repaid does not exceed the amount of temporary disability benefits;

(D) An employee claiming a mental injury, as defined by § 50-6-102, occurring on or after July 1, 2009, shall be conclusively presumed to be at maximum medical improvement upon the earliest occurrence of the following:

(i) At the time the treating psychiatrist concludes the employee has reached maximum medical improvement; or

(ii) Deleted by 2013 Pub.Acts, c. 289, § 47, eff. July 1, 2014.

(iii) One hundred four (104) weeks after the date of injury in the case of mental injuries where there is no underlying physical injury;

(E) An employee claiming an injury as defined in § 50-6-102, when the date of injury is on or after July 1, 2014, shall be conclusively presumed to be at maximum medical improvement when the treating physician ends all active medical treatment and the only care provided is for the treatment of pain or for a mental injury that arose primarily out of a compensable physical injury. The employer shall be given credit against an award of permanent disability for any amount of temporary total disability benefits paid to the employee after the date that the employee attains maximum medical improvement as determined by a workers' compensation judge.

(2) TEMPORARY PARTIAL DISABILITY.

(A) In all cases of temporary partial disability, the compensation shall be sixty-six and two thirds percent (66 ⅔ %) of the difference between the average weekly wage of the worker at the time of the injury and the wage the worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of the disability, not, however, beyond four hundred fifty (450) weeks, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to the same maximum, as stated in subdivision (1). In no event shall the compensation be less than the minimum weekly benefit;

(B) In all cases of temporary partial disability for claims with a date of injury on or after July 1, 2014, the compensation shall be sixty-six and two-thirds percent (66 ⅔ %) of the difference between the average weekly wage of the worker at the time of the injury and the wage the worker is able to earn in the worker's partially disabled condition. This compensation shall be paid during the period of the disability, but payment shall not extend beyond four hundred fifty (450) weeks. Payment shall be made at the intervals when the wage was payable, as nearly as may be, and subject to the same maximum, as stated in subdivision (1). In no event shall the compensation be less than the minimum weekly benefit;

(C) In any case when a dispute exists over the date of the employee's attainment of maximum medical improvement, the employer shall be given credit against an award of permanent disability for any amount of temporary partial disability paid to the employee after the date on which the workers' compensation judge determines maximum medical improvement.

(3) PERMANENT PARTIAL DISABILITY.

(A) In case of disability partial in character but adjudged to be permanent, at the time the injured employee reaches maximum medical improvement the injured employee shall be paid sixty-six and two-thirds percent (66 ⅔ %) of the employee's average weekly wages for the period of compensation, which shall be determined by multiplying the employee's impairment rating by four hundred fifty (450) weeks. The injured employee shall receive these benefits, in addition to the benefits provided in subdivisions (1) and (2) and those provided by § 50-6-204, whether the employee has returned to work or not; and

(B) If at the time the period of compensation provided by subdivision (3)(A) ends, the employee has not returned to work with any employer or has returned to work and is receiving wages or a salary that is less than one hundred percent (100%) of the wages or salary the employee received from his pre-injury employer on the date of injury, the injured employee may file a claim for increased benefits. If appropriate, the injured employee's award as determined under subdivision (3)(A) shall be increased by multiplying the award by a factor of one and thirty-five one hundredths (1.35); in addition, the injured employee's award shall be further increased by multiplying the award by the product of the following factors, if applicable:

(i) Education: One and forty-five one hundredths (1.45), if the employee lacks a high school diploma or general equivalency diploma;

(ii) Age: One and two tenths (1.2), if the employee was more than forty (40) years of age at the time the period of compensation ends; and

(iii) Unemployment rate: One and three tenths (1.3), if the unemployment rate, in the Tennessee county where the employee was employed by the employer on the date of the workers' compensation injury, was at least two (2) percentage points greater than the yearly average unemployment rate in Tennessee according to the yearly average unemployment rate compiled by the department for the year immediately prior to the expiration of the period of compensation.

(C) In determining the employee's increased award pursuant to subdivision (3)(B), the employer shall be given credit for payment of the original award of benefits as determined under subdivision (3)(A) against the increased award.

(D) Any employee may file a claim for increased benefits under subdivision (3)(B) by filing a new petition for benefit determination, on a form prescribed by the administrator, with the division no more than one (1) year after the period of compensation provided in subdivision (3)(A) ends. Any claim for increased benefits under this subdivision (3)(D) shall be forever barred, unless the employee files a new petition for benefit determination with the division within one (1) year after the period of compensation for the subject injury ends. Under no circumstances shall an employee be entitled to additional benefits when:

(i) The employee's loss of employment is due to the employee's voluntary resignation or retirement; provided, however, that the resignation or retirement does not result from the work-related disability;

(ii) The employee's loss of employment is due to the employee's misconduct connected with the employee's employment; or

(iii) The employee remains employed but received a reduction in salary, wages, or hours that is concurrent with a reduction in salary, wages or reduction in hours that affected at least fifty percent (50%) of all hourly employees operating at or out of the same location.

(E) Nothing in this subdivision (3) shall prohibit the employer and employee from settling the issue of additional benefits at any time after the employee reaches maximum medical improvement. Any settlement or award of additional permanent partial disability benefits pursuant to this subdivision (3) shall give the employer credit for prior permanent partial disability benefits paid to the employee.

(F) Subdivision (3)(B) shall not apply to injuries sustained by an employee who is not eligible or authorized to work in the United States under federal immigration laws.

(G) The total amount of compensation payable in this subdivision (3) shall not exceed the maximum total benefit. The payment of temporary total disability benefits or temporary partial disability benefits shall not be included in calculating the maximum total benefit.

(H) All cases of permanent partial disability shall be apportioned to the body as a whole, which shall have a value of four hundred fifty (450) weeks, and there shall be paid compensation to the injured employee for the proportionate loss of use of the body as a whole resulting from the injury. If an employee has previously sustained an injury compensable under this section and has been awarded benefits for that injury, the injured employee shall be paid compensation for the period of temporary total disability or temporary partial disability and only for the degree of permanent disability that results from the subsequent injury.

(4) PERMANENT TOTAL DISABILITY.

(A) (i) For permanent total disability as defined in subdivision (4)(B), sixty-six and two thirds percent (66 ⅔ %) of the wages received at the time of the injury, subject to the maximum weekly benefit and minimum weekly benefit; provided, that if the employee's average weekly wages are equal to or greater than the minimum weekly benefit, the employee shall receive not less than the minimum weekly benefit; provided, further, that if the employee's average weekly wages are less than the minimum weekly benefit, the employee shall receive the full amount of the employee's average weekly wages, but in no event shall the compensation paid be less than the minimum weekly benefit. This compensation shall be paid during the period of the permanent total disability until the employee is, by age, eligible for full benefits in the Old Age Insurance Benefit Program under the Social Security Act, compiled in 42 U.S.C. § 401 et seq.; provided, that with respect to disabilities resulting from injuries that occur less than five (5) years before the date when the employee is eligible for full benefits in the Old Age Insurance Benefit Program as referenced previously in this subdivision (4)(A)(i) or after the employee is eligible for such benefits,

permanent total disability benefits are payable for a period of two hundred sixty (260) weeks. The compensation payments shall be reduced by the amount of any old age insurance benefit payments attributable to employer contributions that the employee may receive under title 42, chapter 7, title II of the Social Security Act, 42 U.S.C. § 401 et seq. Notwithstanding any statute or court decision to the contrary, the statutory social security offset provided by this section shall have no applicability to death benefits awarded to a deceased worker's dependents pursuant to this chapter;

(ii) Notwithstanding any other law to the contrary and notwithstanding any agreement of the parties to the contrary, permanent total disability payments shall not be commuted to a lump sum, except in accordance with the following:

(a) Benefits may be commuted to a lump sum to pay only the employee's attorney's fees and litigation expenses and to pay preinjury obligations in arrears;

(b) The commuted portion of an award shall not exceed the value of one hundred (100) weeks of the employee's benefits;

(c) After the total amount of the commuted lump sum is determined, the amount of the weekly disability benefit shall be recalculated to distribute the total remaining permanent total benefits in equal weekly installments beginning with the date of entry of the order and terminating on the date the employee's disability benefits terminate pursuant to subdivision (4)(A)(i);

(iii) For injuries occurring on or after July 1, 2014, attorneys' fees in contested cases of permanent disability shall be calculated upon the first four hundred fifty (450) weeks of disability only;

(iv) In case an employee who is permanently and totally disabled becomes a resident of a public institution, and provided further, that if no person or persons are wholly dependent upon the employee, then the amounts falling due during the lifetime of the employee shall be paid to the employee or to the employee's guardian or conservator, if adjudicated incompetent, to be spent for the employee's benefit; such payments to cease upon the death of the employee;

(B) When an injury not otherwise specifically provided for in this chapter totally incapacitates the employee from working at an occupation that brings the employee an income, the employee shall be considered totally disabled and for such disability compensation shall be paid as provided in subdivision (4)(A); provided, that the total amount of compensation payable under this subdivision (4)(B) shall not exceed the maximum total benefit, exclusive of medical and hospital benefits;

(C) (i) If an employee is determined, by trial or settlement, to be permanently totally disabled, the employer, insurer or the department, in the event the second injury fund is involved, may have the employee examined, at the expense of the requesting entity, from time to time, subject to the conditions outlined in this section, and may seek reconsideration

of the issue of permanent total disability as provided in this subdivision (4)(C);

(ii) The request for the examination of the employee may not be made until twenty-four (24) months have elapsed following the entry of a final order in which it is determined that the employee is permanently totally disabled. Any request for an examination is subject to considerations of reasonableness in regard to notice prior to examination, place of examination and length of examination;

(iii) A request for an examination may not be made more often than once every twenty-four (24) months. The procedure for this examination shall be as follows:

(a) The requesting entity shall first make informal contact with the employee, either by letter or by telephone, to attempt to schedule an appointment with a physician for examination at a mutually agreeable time and place. It is the intent of the general assembly that the requesting entity make a good faith effort to reach a mutual agreement for examination, recognizing the inherently intrusive nature of a request for examination;

(b) If, after a reasonable period of time, not to exceed thirty (30) days, mutual agreement is not reached, the requesting entity shall send the employee written notice of demand for examination by certified mail, return receipt requested, on a form provided by the department. The form shall clearly inform the employee of the following: the date, time and place of the examination; the name of the examining physician; the employee's obligations; any pertinent time limitations; the employee's rights; and any consequences of the employee's failure to submit to the examination. The examination shall be scheduled to take place within thirty (30) days of the date on the notice;

(c) After receipt of the notice of demand for examination, the employee shall either submit to the examination at the time and place identified in the notice form, or, within thirty (30) days from the date of the notice, the employee shall schedule an appointment for a different date and time conducted by the same physician, and this examination shall be completed no later than ninety (90) days from the date of the notice;

(d) In the event the employee fails to submit to the examination at the time and place identified in the notice form and fails to schedule, within thirty (30) days from the date of the notice, an alternative examination date, as provided in subdivision (4)(C)(iii)(c), then the employee's periodic benefits shall be suspended for a period of thirty (30) days;

(e) In the event the employee schedules an alternative date for the examination as provided in subdivision (4)(C)(iii)(c), and fails to submit to the examination within the ninety (90) day period, then the employee's periodic benefits shall be suspended for a period of thirty (30) days beginning at the end of the ninety (90)

day period within which the alternatively scheduled examination was to be completed;

(f) If the employee submits to an examination within any period of suspension of benefits, then within fourteen (14) days of the submission, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension of benefits shall be remitted to the employee;

(g) Within ten (10) days of the date on which periodic benefits are suspended pursuant to either subdivision (4)(C)(iii)(d) or (4)(C)(iii)(e), the entity suspending the periodic benefits shall notify the department, in writing, that periodic benefits have been suspended and the date on which the periodic benefits were suspended and shall provide the department a copy of the original notice of demand for examination sent to the employee; and

(h) After the department receives notice of suspension of benefits pursuant to either subdivision (4)(C)(iii)(d) or (4)(C)(iii)(e), the department shall contact the employee and for a period of thirty (30) days assist the employee to schedule an examination to be conducted by the physician named in the notice. After the thirty (30) day assistance period has elapsed, if the employee has not submitted to an examination, the department shall authorize the employer, insurer or department to suspend periodic benefits for a period of thirty (30) days. At the conclusion of each thirty (30) day suspension period, periodic benefits shall be restored. After the restoration of periodic benefits, the department shall, in thirty (30) day cycles, continue to assist the employee to schedule the examination, to be followed by thirty (30) day cycles of suspension of benefits until the examination of the employee is completed. If, at any time during any period of suspension of periodic benefits, the employee submits to an examination, then within fourteen (14) days of notice of the examination having been conducted, periodic benefits shall be restored and any periodic benefits that were withheld during any period of suspension shall be remitted to the employee;

(iv) Subsequent to an examination as described in this subdivision (4)(C), the employer, insurer or department may request a reconsideration of the issue of whether the employee continues to be permanently totally disabled based on any changes in the employee's circumstances that have occurred since the time of the initial settlement or trial;

(v) Prior to filing any request for reconsideration, the employer, insurer or department shall file a petition for benefit determination and participate in alternative dispute resolution pursuant to § 50-6-236. In the event the parties are unable to reach an agreement through alternative dispute resolution, the workers' compensation mediator shall issue a dispute certification notice and the employer, insurer or

department may file a request for a hearing, as provided in § 50-6-239, to determine the issue of reconsideration.

(vi) In the event a reconsideration request is filed pursuant to this section, the only remedy available to the employer, insurer or department is the modification or termination of future periodic disability benefits;

(vii) In the event the employer, insurer or department files a request for reconsideration or cause of action under this subdivision (4)(C) and the court does not terminate the employee's future periodic disability benefits, the employee shall be entitled to an award of reasonable attorney fees, court costs and reasonable and necessary expenses incurred by the employee in responding to the request for reconsideration upon application to and approval by the court. In determining what attorney fees shall be awarded under this subdivision (4)(C), the court shall make specific findings with respect to the following criteria:

(a) The time and labor required, the novelty and difficulty of the questions involved in responding to the request for reconsideration, and the skill requisite to perform the legal service properly;

(b) The fee customarily charged in the locality or by the attorney for similar legal services;

(c) The amount involved and the results obtained;

(d) The time limitations imposed by the client or by the circumstances; and

(e) The experience, reputation, and ability of the lawyer or lawyers performing the services;

(D) (i) The employer, insurer or department, in the event the second injury fund is involved, shall notify the department, on a form to be developed by the department, of the entry of a final order adjudging an employee to be permanently totally disabled. The form shall be submitted to the department within thirty (30) days of the entry of the order;

(ii) On an annual basis, the department shall require an employee who is receiving permanent total disability benefits to certify on forms provided by the department that the employee continues to be permanently totally disabled, that the employee is not currently working at an occupation that brings the employee an income and has not been gainfully employed since the date permanent total disability benefits were awarded, by trial or settlement;

(iii) The department shall send the certification form to the employee by certified mail, return receipt requested and shall include a self-addressed stamped envelope for the return of the completed form; and

(iv) In each annual cycle, if the employee fails to return the form to the department within thirty (30) days of the date of receipt of the form, as evidenced by the date on the return receipt notice, then the department shall notify the entity who gave notice to the department

that the employee was permanently totally disabled pursuant to subdivision (4)(D)(i) that four (4) weeks of periodic disability benefits shall be withheld from the employee as a penalty for the failure to return the form to the department. If the completed form is returned to the department within one hundred twenty (120) days of the date on the return receipt notice, the department shall notify the appropriate entity and then, within fourteen (14) days of receipt of the notice from the department, that entity shall refund to the employee the entire four (4) weeks of periodic disability benefits previously withheld from the employee;

(5) DEDUCTIONS IN CASE OF DEATH. In case a worker sustains an injury due to an accident arising primarily out of and in the course and scope of the worker's employment, and during the period of disability caused by the injury death results proximately from the injury, all payments previously made as compensation for the injury shall be deducted from the compensation, if any, due on account of death; and

(6) For social security purposes only, as permitted by federal law or regulation, in an award of compensation as a lump sum or a partial lump sum under this chapter for permanent partial or permanent total disability, the court may make a finding of fact that the payment represents a payment to the individual to be distributed over the individual's lifetime based upon life expectancy as determined from mortality tables maintained by the United States Centers for Disease Control and Prevention.

§ 50-6-208. Subsequent injuries; second injury fund

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) If an employee has previously sustained a permanent physical disability from any cause or origin and becomes permanently and totally disabled through a subsequent injury, the employee shall be entitled to compensation from the employee's employer or the employer's insurance company only for the disability that would have resulted from the subsequent injury, and the previous injury shall not be considered in estimating the compensation to which the employee may be entitled under this chapter from the employer or the employer's insurance company; provided, that in addition to the compensation for a subsequent injury, and after completion of the payments for the subsequent injury, then the employee shall be paid the remainder of the compensation that would be due for the permanent total disability out of a special fund to be known as the second injury fund.

(2) To receive benefits from the second injury fund, the injured employee must be the employee of an employer who has properly insured the employer's workers' compensation liability or has qualified to operate under this chapter as a self-insurer, and the employer must establish that the employer had actual knowledge of the permanent and preexisting disability at the time that the employee was hired or at the time that the employee was retained in employment after the employer acquired knowledge, but in all cases prior to the subsequent injury.

(3) In determining the percentage of disability for which the second injury fund shall be liable, no previous physical impairment shall be considered unless the impairment was within the knowledge of the employer as prescribed in subdivision (a)(2).

(4) Nothing in this section shall be construed to limit the employer's liability as provided by law for aggravation of preexisting conditions or disabilities in cases where recovery against the second injury fund is not applicable.

(5) Claims against the fund shall be made by either the injured employee or the employer in the manner prescribed in § 50-6-239. In all cases when a party is making a claim against the fund, the party advancing the claim shall give notice to the fund of any alternative dispute resolution proceedings scheduled pursuant to § 50-6-236.

(6) Nothing in this section shall relieve the employer or its insurance company of liability for other benefits that may be due the injured employee, including temporary benefits, medical expenses and permanent benefits for injuries.

(b) Deleted by 2013 Pub.Acts, c. 289, § 55, eff. July 1, 2014.

(c) A sum sufficient to provide the benefits of this section shall be allocated from the four percent (4%) premium tax imposed in § 50-6-401(b), subject to a maximum allocation of fifty percent (50%) of the premium tax collected. The sums shall be deposited in the second injury fund for distribution by the administrator of the division of workers' compensation.

(d) There is appropriated a sum sufficient to the second injury fund for payment of benefits provided in this section, pursuant to this section. The appropriation shall be allocated from and equal to an amount not greater than fifty percent (50%) of the revenues derived from the premium tax levied pursuant to § 50-6-401.

(e) The sums collected by the administrator as provided in this section shall be deposited by the administrator in a special fund, which shall be termed the second injury fund, to be disbursed by the administrator only for the purposes stated in this section and shall not at any time be appropriated or diverted to any other purpose. The administrator shall not invest any moneys in the second injury fund in any other manner than is provided by the general laws of the state for investments of funds in the hands of the state treasurer. Disbursements from the fund shall be made by the administrator only after receipt by the administrator of a certified copy of the court decree awarding compensation as provided in this section. Disbursements shall be made only in accordance with the decree. A copy of the decree awarding compensation from the second injury fund shall in all cases be filed with the division.

(f) The administrator, in consultation with the attorney general and reporter, shall prepare a plan for a pilot project using private legal counsel to defend the administrator in actions claiming compensation from the second injury fund pursuant to § 50-6-206. The plan shall include types of cases, approximate numbers of cases, proposed method of selection and other relevant matters. Any private legal counsel retained for these purposes shall be retained pursuant to § 8-6-106. Expenses relating to private legal counsel retained pursuant to this subsection (f) shall be paid from the second injury fund.

(g) (1) Before any proposed settlement is considered final in cases involving benefits from the second injury fund under this section, it shall either:

(A) Have the written approval of the administrator or the administrator's designee, in accordance with subdivision (g)(2); or

(B) Have been approved in accordance with § 20-13-103.

(2) The administrator is authorized to settle certain second injury fund claims without the necessity of complying with § 20-13-103; provided, that the attorney general and reporter, with the written approval of the governor and the comptroller of the treasury, shall set specific limits and conditions on the settlement authority.

(h) In order to require the second injury fund to participate in the alternative dispute resolution, a party shall serve notice of potential liability on the fund.

(i) "Party" or "parties," as referenced in § 50-6-204(d)(5), shall include the second injury fund.

§ 50-6-209. Maximum compensation

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) In all cases of permanent total disability of an employee covered by this chapter, sixty-six and two-thirds percent (66 ⅔ %) of the average weekly wages shall be paid, subject to maximum compensation as follows: where there are or are not persons dependent upon each injured employee, the maximum weekly benefit per week.

(b) (1) In all cases of death of an employee covered by this chapter, sixty-six and two-thirds percent (66 ⅔ %) of the average weekly wages shall be paid in cases where the deceased employee leaves dependents, subject to the maximum weekly benefit.

(2) In all cases of death of an employee covered by this chapter, and where the employee leaves no dependents, as provided in § 50-6-210, then the lump sum amount of twenty thousand dollars ($20,000) shall be paid to the estate of the deceased employee.

(3) The total amount of compensation payable under this subsection (b) shall not exceed the maximum total benefit exclusive of medical, hospital and funeral benefits.

§ 50-6-210. Dependents

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) PERSONS WHOLLY DEPENDENT. For the purposes of this chapter, the following persons shall be conclusively presumed to be wholly dependent:

(1) A surviving spouse, unless it is shown that the surviving spouse was voluntarily living apart from the surviving spouse's spouse at the time of injury; and

(2) Children under sixteen (16) years of age.

(b) PERSONS PRIMA FACIE DEPENDENT. Children between sixteen (16) and eighteen (18) years of age, or those over eighteen (18) years of age, if physically or mentally incapacitated from earning, shall prima facie be considered dependent.

(c) ACTUAL DEPENDENTS. Wife, husband, child, mother, father, grandparent, sister, brother, mother-in-law, father-in-law, who were wholly supported by the deceased employee at the time of death and for a reasonable period of time immediately prior to the time of death, shall be considered actual dependents, and payment of compensation shall be made in the order named.

(d) PARTIAL DEPENDENTS. Any member of a class named in subsection (c) who regularly derived part of the member's support from the wages of the deceased employee at the time of death and for a reasonable period of time immediately prior to the time of death shall be considered a partial dependent, and payment of compensation shall be made to the dependents in the order named.

(e) COMPENSATION IN DEATH CASES. In death cases, compensation payable to dependents shall be computed on the following basis, and shall be paid to the persons entitled to compensation, without administration:

(1) SURVIVING SPOUSE AND NO DEPENDENT CHILD. If the deceased employee leaves a surviving spouse and no dependent child, there shall be paid to the surviving spouse fifty percent (50%) of the average weekly wages of the deceased.

(2) SURVIVING SPOUSE AND CHILDREN. If the deceased employee leaves a surviving spouse and one (1) or more dependent children, there shall be paid to the surviving spouse for the benefit of the surviving spouse and the child or children, sixty-six and two-thirds percent (66 ⅔ %) of the average weekly wages of the deceased.

(3) SURVIVING SPOUSE AND CHILDREN, HOW PAID. In all cases where compensation is payable to a surviving spouse for the benefit of the surviving spouse and dependent child or children, the court shall have the power to determine in its discretion what portion of the compensation shall be applied for the benefit of any child or children, and may order the compensation paid to a guardian.

(4) REMARRIAGE OF SURVIVING SPOUSE. Upon the remarriage of a surviving spouse, if there is no child of the deceased employee, the compensation shall terminate; but if there is a child or children under eighteen (18) years of age, or over eighteen (18) years of age if physically or mentally incapacitated from earning, from the time of the remarriage the child or children shall have status of orphan or orphans, and draw compensation accordingly, not, however, to exceed sixty-six and two-thirds percent (66 ⅔ %) of the average weekly wages of the deceased.

(5) DEPENDENT ORPHANS. If the deceased employee leaves one (1) dependent orphan, there shall be paid fifty percent (50%) of the average weekly wages of the deceased; if the deceased leaves two (2) or more dependent orphans, there shall be paid sixty-six and two-thirds percent (66 ⅔ %) of the average weekly wages of the deceased.

(6) PARENT OR PARENTS. If the deceased employee leaves no surviving spouse or child entitled to any payment under this section, but should leave a parent or parents, either or both of whom are wholly dependent on the deceased, there shall be paid, if only one (1) parent, twenty-five percent (25%) of the average

weekly wages of the deceased to the parent, and if both parents, thirty-five percent (35%) of the average weekly wages of the deceased to the parents.

(7) GRANDPARENT, BROTHER, SISTER, MOTHER-IN-LAW OR FATHER-IN-LAW. If the deceased leaves no surviving spouse or dependent child or parent entitled to any payment under this section, but leaves a grandparent, brother, sister, mother-in-law or father-in-law wholly dependent upon the deceased for support, there shall be paid to the dependent, if only one (1), twenty percent (20%) of the average weekly wages of the deceased, or, if more than one (1), twenty-five percent (25%) of the average weekly wages of the deceased, divided between them or among them share and share alike.

(8) COMPENSATION TO DEPENDENTS TO CEASE UPON DEATH OR MARRIAGE. If compensation is being paid under this chapter to any dependent, the compensation shall cease, upon the death or marriage of the dependent, unless otherwise provided in this section.

(9) PARTIAL DEPENDENTS TO RECEIVE PROPORTION. Partial dependents shall be entitled to receive only that proportion of the benefits provided for actual dependents that the average amount of the wages regularly contributed by the deceased to the partial dependent at the time of, and for a reasonable time immediately prior to, the injury, bore to the total income of the dependent during the same time.

(10) MAXIMUM AND MINIMUM COMPENSATION. The compensation payable in case of death to persons wholly dependent shall be subject to the maximum weekly benefit and minimum weekly benefit; provided, that if at the time of injury the employee receives wages of less than the minimum weekly benefit, the compensation shall be the full amount of the wages a week, but in no event shall the compensation payable under this provision be less than the minimum weekly benefit. The compensation payable to partial dependents shall be subject to the same maximum and minimum specified in this subdivision (e)(10); provided, that if the income loss of the partial dependents by the death is less than the minimum weekly benefit, then the dependents shall receive the full amount of the income loss. This compensation shall be paid during dependency not to exceed the maximum total benefit, payments to be paid at the intervals when the wage was payable, as nearly as may be.

(11) ORPHANS AND OTHER CHILDREN. In computing and paying compensation to orphans or other children, in all cases, only those under eighteen (18) years of age, or those over eighteen (18) years of age who are physically or mentally incapacitated from earning, shall be included, the former to receive compensation only during the time they are under eighteen (18) years of age, the latter only for the time they are so incapacitated. If the dependent is attending a recognized educational institution, benefits shall be paid until twenty-two (22) years of age.

(12) ACTUAL DEPENDENTS. Actual dependents shall be entitled to take compensation in the order named in subsection (c), until sixty-six and two-thirds percent (66 ⅔ %) of the monthly wages of the deceased during the time specified in this chapter have been exhausted, but the total compensation to be paid to all actual dependents of a deceased employee shall not exceed in the aggregate the maximum weekly benefit.

(13) DEPENDENCY STATUS NOT AFFECTED BY CERTAIN ASSISTANCE PAYMENTS. Sums distributed under the Employment Security Law, compiled in chapter 7 of this title; the Old-Age Assistance Law, compiled in title 71, chapter 2, part 2; the Aid to Dependent Children Law, compiled in title 71, chapter 3, part 1; Aid to Blind Law, compiled in title 71, chapter 4, part 1; the federal Social Security Act, compiled in 42 U.S.C. § 301 et seq., or any other public assistance distributed by the United States government, the state, or any county or municipality of the state, shall not be considered income within the meaning of this law and shall not affect the status or compensation of any person entitled to benefits as provided in this chapter.

(f) (1) (A) If compensation is payable due to the death of an employee under this chapter, and the decedent leaves an alien dependent or dependents residing outside of the United States, a workers' compensation mediator is authorized to conduct alternative dispute resolution proceedings to attempt to resolve the issues; provided, that a representative or representatives of the employer and a duly authorized representative or representatives of the consul or other representative of the foreign country in which the dependent or dependents reside are present. If the parties reach a settlement agreement, the administrator or administrator's designee is authorized to approve the settlement, and the order of the administrator or the administrator's designee shall be entitled to the same standing as a judgment of a court of record for all purposes. If the parties are unable to reach an agreement, the employer or employee's representative may seek relief pursuant to § 50-6-239 following the issuance of a dispute certification notice.

(B) The administrator, or administrator's designee, or the court shall order payment of any compensation due from the employer to be made to the duly accredited consular officer of the country where the beneficiaries are citizens. The consular officer or the consular officer's representative shall be fully authorized and empowered by this law to settle all claims for compensation and to receive the compensation for distribution to the persons entitled to the compensation.

(2) The distribution of funds in cases described in subdivision (f)(1)(A) shall be made only upon the order of the administrator, the administrator's designee, or the court that heard the matter. If required to do so by the administrator, the administrator's designee, or the court, the consular officer or the consular officer's representative shall execute a good and sufficient bond to be approved by the administrator, the administrator's designee, or the court, conditioned upon the faithful accounting of the moneys so received by the consular officer or the consular officer's representative. Before the bond is discharged, a verified statement of receipts and disbursements of the moneys shall be made and filed with the administrator or the court, as appropriate.

(3) The consular officer or the consular officer's representative shall, before receiving the first payment of the compensation, and at reasonable times thereafter, upon the request of the employer, furnish to the employer a sworn statement containing a list of the dependents with the name, age, residence, extent of dependency and relation to the deceased of each dependent.

§ 50-6-211. Contribution; pro rata shares; agreements

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) In case any employee for whose injury or death compensation is payable under this chapter, shall, at the time of injury, be employed and paid jointly by two (2) or more employers subject to this chapter, the employers shall contribute to the payment of the compensation in a proportion of their several wage liability to the employee.

(b) If one (1) or more, but not all, of the employers are subject to this chapter, and otherwise subject to liability for compensation under this chapter, then the liability of those who are so subject shall be to pay the proportion of the entire compensation that their portion of the wage liability bears to the wages of the employee; provided, that nothing in this section shall prevent any agreement between the different employers between themselves as to the distribution of the ultimate burden of the compensation.

§ 50-6-212. Hernia or rupture

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) In all claims for compensation for hernia or rupture, resulting from injury by accident arising primarily out of and in the course and scope of the employee's employment, it must be definitely proven to the satisfaction of the court that:

(1) There was an injury resulting in hernia or rupture;

(2) The hernia or rupture appeared suddenly;

(3) It was accompanied by pain;

(4) The hernia or rupture immediately followed the accident; and

(5) The hernia or rupture did not exist prior to the accident for which compensation is claimed.

(b) All hernia or rupture, inguinal, femoral or otherwise, so proven to be the result of an injury by accident arising primarily out of and in the course and scope of the employment, shall be treated in a surgical manner by a radical operation. If death results from the operation, the death shall be considered as the result of the injury, and compensation paid in accordance with this chapter.

(c) (1) In case the injured employee refuses to undergo the radical operation for the cure of the hernia or rupture, no compensation will be allowed during the time the refusal continues.

(2) If, however, it is shown that the employee has some chronic disease, or is otherwise in such physical condition that the court finds it unsafe for the employee to undergo the operation, the employee shall be paid compensation in accordance with this chapter.

§ 50-6-213. Epilepsy

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Epileptics may elect not to be subject to this part for injuries resulting because of epilepsy and still remain subject to its provisions for all other injuries.

(b) This election shall be made by giving notice to the employer in writing on a form to be furnished by the division of workers' compensation and filing a copy of the notice with the division.

(c) An election may be revoked by giving written notice to the employer of revocation, and the revocation shall be effective upon filing copy of the notice with the division.

§ 50-6-214. Workers' compensation benefits and loss adjustment expenses; reimbursement

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator or the administrator's designee shall order appropriate workers' compensation benefits and loss adjustment expenses associated with the claim to be paid on an equal basis by the insurance carrier or carriers and the self-insured employer, as appropriate, in any case where:

(1) (A) An employer changes insurance carriers;

(B) The employer having been self-insured, becomes insured; or

(C) The employer having been insured, is approved to be self-insured; and

(2) One (1) of the following applies:

(A) The compensability of the claim is not being disputed by the employer or carrier; or

(B) A workers' compensation judge has determined the claim to be compensable or ordered the provision of benefits to an employee; and

(3) There is a dispute as to which entity is responsible to provide workers' compensation benefits to a worker.

(b) Upon an agreement by the parties or a court order as to which entity is responsible to pay the workers' compensation benefits to the employee, the entity responsible for the provision of workers' compensation benefits shall reimburse the other entity all moneys paid for or on behalf of the employee as ordered by the administrator or the administrator's designee, plus interest from the date of payment at the rate set by § 47-14-121.

§ 50-6-215. Rental and assignment of PPO network rights

Effective: January 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) This section may be referred to as the "Rental and Assignment of PPO Network Rights."

(b) For purposes of this section, unless the context otherwise requires:

(1) "Contracting agent" means any person that is in direct privity of contract with a medical provider to reimburse the medical provider for medical services provided to an injured worker pursuant to this chapter at rates other than those provided under the workers' compensation medical fee schedule. Nothing contained within this section shall be construed to permit the creation of preferred provider organization networks that permit payments above the medical fee schedule adopted by the department; and

(2) "Workers' compensation payor" means an employer, workers' compensation trust, workers' compensation pool or insurer responsible pursuant to § 50-6-405 for paying a medical provider for the delivery of workers' compensation related healthcare services.

(c) Every contracting agent that sells, leases, assigns, transfers, or conveys its list of contracted medical providers and their contracted reimbursement rates shall, upon entering or renewing a medical provider contract, do all of the following:

(1) Disclose to the medical provider whether the list of contracted medical providers may be sold, leased, transferred, or conveyed to other payors or agents, including workers' compensation insurers or self insureds. The disclosure of the ability to sell, lease, transfer or convey the list or network of medical providers shall be in a section of a contract titled "assignment" or "assignability" or similar title;

(2) Disclose whether workers' compensation payors to whom the list of contracted medical providers may be sold, leased, transferred, or conveyed may be permitted to pay a medical provider's contracted rate if less than the workers' compensation fee schedule. The disclosure of the ability to pay a medical provider's contracted rate, if less than the workers' compensation fee schedule, shall be in a section of a contract titled "assignment" or "assignability" or similar title;

(3) Allow medical providers, upon the initial signing or renewal of a medical provider contract, to decline to participate in networks solely to serve workers' compensation payors that are sold, leased, transferred, or conveyed to workers' compensation payors; and

(4) Maintain a web page that contains a complete listing of customers to whom the network is sold, leased, transferred or conveyed that is accessible to all contracted medical providers and updated at least twice a year, as well as maintain a toll-free telephone number accessible to all contracted medical providers whereby medical providers may access workers' compensation payor summary information and a list of lessees of the network.

(d) (1) The explanation of payment (EOP) or explanation of review (EOR) transmitted to the medical provider shall delineate the following information:

(A) Employer's name;

(B) Injured worker's name;

(C) Name of the workers' compensation payor and the name of the third party administrator if a third party administrator is utilized. If a third party administrator is utilized, then a telephone number for the third party administrator shall be delineated; otherwise, a telephone number for the workers' compensation payor shall be delineated;

(D) Name and telephone number of the entity that analyzes the medical provider bill for the purpose of ensuring that the billed amount complies with the workers' compensation medical fee schedule;

(E) Name and telephone number of the contracting agent that has a written medical provider contract signed by the medical provider whereby the contracting agent or a third party is entitled to access and pay rates other than those provided under the workers' compensation medical fee schedule;

(F) Name and telephone number of the entity that analyzes the medical provider bill for the purpose of reducing the billed amount below the medical fee schedule pursuant to a preferred provider organization network contract, unless the entity is the same entity referenced in subdivision (d)(1)(E);

(G) Amount billed by the medical provider;

(H) Amount permitted by the workers' compensation fee schedule; and

(I) Amount of payment.

(2) Within twenty (20) calendar days of a medical provider submitting in writing to a workers' compensation payor an EOP or EOR that does not comply with subdivision (d)(1), the entity that originally generated the EOP or EOR shall issue to the medical provider a corrected EOP or EOR that complies with subdivision (d)(1).

(3) A workers' compensation payor shall demonstrate that it is entitled to pay a contracted rate within thirty (30) days of receipt of a written request from a medical provider who has received a claim payment from the workers' compensation payor. The medical provider shall include in the request a statement explaining why the payment is not at the correct contracted rate for the services provided. The failure of the medical provider to include such a statement shall relieve the workers' compensation payor from the responsibility of demonstrating that it was entitled to pay the disputed contracted rate. A workers' compensation payor shall be deemed to have demonstrated that it is entitled to pay a contracted rate if it correctly identifies the contracting agent that originally entered into the contract with the medical provider to pay the claim at the contracted rate.

§ 50-6-216. Workers' compensation ombudsman program; penalty

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014.>

(a) The administrator shall establish a workers' compensation ombudsman program to assist injured or disabled employees, persons claiming death benefits, employers, and

other persons in protecting their rights, resolving disputes, and obtaining information available under workers' compensation laws. The ombudsman program shall be available only to those individuals or organizations that are not represented by an attorney in the claim for workers' compensation benefits.

(b) No statement, discussion, evidence, allegation or other matter of legal significance that occurs in the presence of an ombudsman shall be admissible as evidence in any other proceeding.

(c) The administrator may adopt rules and regulations consistent with this chapter in order to fulfill the purposes of this section in an orderly and efficient manner.

(d) The division shall have authority to assess a civil penalty against any person or organization, with the exception of the state or a representative of the state, that refuses to cooperate with the services provided by an ombudsman as provided in § 50-6-118.

(e) (1) Any party that is not represented by legal counsel may request the services of a workers' compensation ombudsman by contacting the office of mediation services.

(2) The ombudsman's authority shall include, but not be limited to, the following:

(A) Meet with and provide information to unrepresented parties about the unrepresented party's rights and responsibilities under the law;

(B) Explain the administrative process for resolving workers' compensation claims;

(C) Investigate claims and attempt to resolve disputes without resort to alternative dispute resolution and court proceedings;

(D) Communicate with all parties and providers in the claim;

(E) Assist the parties in the completion of forms; and

(F) Facilitate the exchange of medical records.

(3) An ombudsman shall not provide legal advice.

(4) An ombudsman shall not be called to testify in any proceeding and no statement or representation made to an ombudsman shall be considered by a workers' compensation judge for any purpose.

(5) An unrepresented party has a right to consult with an ombudsman and receive services under this subsection. If the party receiving the services of an ombudsman obtains legal counsel pertaining to the case or dispute for which the services of an ombudsman were engaged, the party, or the party's counsel, shall immediately notify the division and the office of mediation services. Upon receipt of notice that the party has retained counsel, the ombudsman shall terminate all services.

§ 50-6-217. Workers' compensation appeals board; establishment; review

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. >

(a) The administrator shall establish a workers' compensation appeals board, which shall be wholly separate from the court of workers' compensation claims, to review

interlocutory and final orders entered by workers' compensation judges upon application of any party to a workers' compensation claim.

(1) Any party aggrieved by an order for temporary disability or medical benefits or an order either awarding permanent disability or medical benefits or denying a claim for permanent disability or medical benefits issued by a workers' compensation judge may request review of the order by the workers' compensation appeals board by filing a request for appeal, on a form prescribed by the administrator. Review shall be accomplished in the following manner:

(A) Within seven (7) business days after issuance of an interlocutory order for temporary disability or medical benefits by a workers' compensation judge, either party may request an appeal of the decision. Within seven (7) business days of receiving an appeal of an interlocutory order, the workers' compensation appeals board shall enter an order affirming, reversing, remanding, or modifying the decision of the workers' compensation judge. The workers' compensation appeals board's decision on an appeal of an interlocutory order shall not be subject to further review.

(B) Within thirty (30) calendar days after issuance of a compensation order pursuant to § 50-6-239(c)(2), either party may request an appeal of the decision by filing a notice of appeal with the workers' compensation appeals board. Parties shall have fifteen (15) calendar days after an appeal is filed to file briefs with the workers' compensation appeals board. Within forty-five (45) calendar days after receiving an appeal of a compensation order, the workers' compensation appeals board shall issue a decision either affirming the judgment and certifying the workers' compensation judge's order as final or remanding the case. If judgment is affirmed, the final order of the workers' compensation judge shall be immediately appealable to the state supreme court. If a request for administrative review is timely filed, the order issued by the workers' compensation judge shall not become final, as provided in § 50-6-239(c)(7), until the workers' compensation appeals board issues a written decision certifying the order as a final order.

(2) The workers' compensation appeals board may remand the decision of the workers' compensation judge, if the rights of the party seeking review have been prejudiced because findings, inferences, conclusions, or decisions of a workers' compensation judge:

(A) Violate constitutional or statutory provisions;

(B) Exceed the statutory authority of the workers' compensation judge;

(C) Do not comply with lawful procedure;

(D) Are arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion; or

(E) Are not supported by evidence that is both substantial and material in the light of the entire record.

(b) This section shall have no effect on the procedures established for filing a claim for workers' compensation benefits in the division of claims administration, pursuant to § 9-8-402, or in the claims commission, pursuant to § 9-8-307. The workers'

compensation appeals board shall have no jurisdiction over an appeal of a decision of a commissioner of the claims commission.

(c) The decisions of the workers' compensation appeals board shall not be subject to judicial review pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

§ 50-6-218. Workers' compensation appeals board; judges

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014.>

(a) (1) The governor, in consultation with the speaker of the house of representatives and the speaker of the senate, shall appoint three (3) qualified individuals to serve as judges on the workers' compensation appeals board. Each individual selected shall be a Tennessee licensed attorney, with at least seven (7) years' experience in workers' compensation matters, shall be at least thirty (30) years of age, and shall be required to attend annual training on workers' compensation laws.

(2) Upon appointment, each judge of the workers' compensation appeals board shall serve a term of six (6) years and may be reappointed for an additional term by the governor upon expiration of the initial term. No judge appointed to the workers' compensation appeals board shall serve more than two (2) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. Any judge appointed to the workers' compensation appeals board to serve less than a full term to fill a vacancy created by the removal or resignation of a judge sitting on the workers' compensation appeals board shall be eligible to serve an additional two (2) full terms. In the initial appointment of judges to the workers' compensation appeals board, one (1) judge appointed shall serve a term of two (2) years, one (1) judge appointed shall serve a term of four (4) years, and one (1) judge appointed shall serve a term of six (6) years.

(3) The governor shall have authority to remove a judge sitting on the workers' compensation appeals board during an unexpired term for the commission of any of the judicial offenses provided in § 17-5-302.

(4) Any person appointed to serve as a judge on the workers' compensation appeals board shall be required to take an oath or affirmation to support the constitutions of the United States and of this state, and to administer justice without respect of persons, and impartially to discharge all the duties incumbent upon a judge to the best of the judge's skill and ability. The oath may be taken before another workers' compensation judge, any inferior court judge, a retired judge, a retired chancellor or an active or retired judge of the court of general sessions.

(5) No person appointed to serve as a judge on the workers' compensation appeals board shall practice law, or perform any of the functions of attorney or counsel, in any of the courts of this state, except in cases in which the judge may have been employed as counsel previous to the appointment as a judge on the workers' compensation appeals board. A newly appointed judge on the workers' compensation appeals board can practice law only in an effort to wind up the judge's practice and must end the practice of law as soon as reasonably possible

and in no event longer than one hundred eighty (180) days after assuming the position of judge on the workers' compensation appeals board.

§ 50-6-219. Education and training program for mediators, judges, and ombudsmen

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. >

The administrator shall institute and maintain an education and training program for workers' compensation mediators, workers' compensation judges, the chief judge, ombudsmen, and the judges of the workers' compensation appeals board in order to assure that these persons maintain current and appropriate skills and knowledge in performing their duties. Before assuming their duties, all persons selected to serve or appointed as workers' compensation mediators, workers' compensation judges, the chief judge, ombudsmen, or as judge of the workers' compensation appeals board shall be provided formal training and education, which shall include training on the department's workers' compensation system, the Tennessee workers' compensation statutes and case law, and the rules and regulations of the division of workers' compensation. In addition, such persons shall attend at least seven (7) hours of training each year that is focused on workers' compensation statutes and case law, and the rules and regulations of the division of workers' compensation.

§ 50-6-221. Receipts

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Whenever payment of compensation is made to a surviving spouse for the surviving spouse's use, or for the surviving spouse's use and the use of a child or children, the written receipt of the payment by the surviving spouse shall acquit the employer in this and all other jurisdictions of the entire injury and all its damages.

(b) Whenever payment is made to any person eighteen (18) years of age or over, the written receipt of the person shall acquit the employer in this and all other jurisdictions of the entire injury and all its damages.

(c) (1) Whenever payment is made to a person under eighteen (18) years of age, or to a dependent child as defined in § 50-6-210(b) over eighteen (18) years of age, the payment shall be paid to a duly and regularly appointed guardian or trustee of the child, and the receipt of the guardian or trustee shall acquit the employer in this and all other jurisdictions of the entire injury and all its damages and shall be in lieu of any claim of the parents of the child or minor for loss of services.

(2) Where the amount of compensation due a person under eighteen (18) years of age does not exceed the sum of two hundred fifty dollars ($250), the court may, in its discretion, direct the amount of compensation due the minor be paid as provided by title 34, chapter 1.

§ 50-6-222. Priorities or preferences

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

All rights of compensation granted by this chapter shall have the same preference or priority for the whole thereof against the assets of the employer as is allowed by law for any unpaid wages for labor.

§ 50-6-223. Assignments; exemptions from claims of creditors; child support

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) No claim for compensation under this chapter shall be assignable, and all compensation and claims for compensation shall be exempt from claims of creditors.

(b) Notwithstanding subsection (a), compensation made by periodic payments shall be subject to income assignment for payment of support as provided by title 36, chapter 5, part 5 and § 50-2-105.

(c) Notwithstanding subsection (a), the department of human services shall have a lien on any lump-sum settlements for the collection of current or overdue support as defined by § 36-5-113, and may enforce the lien as provided by title 36, chapter 5, part 9.

§ 50-6-225. Appeals to supreme court; special workers' compensation appeals panel

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) Any party to the proceedings in the court of workers' compensation claims may, if dissatisfied or aggrieved by the judgment of that court, appeal to the supreme court, where the cause shall be heard and determined as provided in the Tennessee Rules of Appellate Procedure.

(2) Review of the workers' compensation court's findings of fact shall be de novo upon the record of the workers' compensation court, accompanied by a presumption of the correctness of the finding, unless the preponderance of the evidence is otherwise.

(3) The supreme court may, by order, refer workers' compensation cases to a panel known as the special workers' compensation appeals panel. This panel shall consist of three (3) judges designated by the chief justice, at least one (1) of whom shall be a member of the supreme court.

(4) Any case that the supreme court by order or rule refers to the special workers' compensation appeals panel shall be briefed, and oral argument shall be heard pursuant to the Tennessee Rules of Appellate Procedure as if the appeal were being heard by the entire supreme court.

(5) (A) The special workers' compensation appeals panel shall reduce to writing its findings and conclusions in all cases. The decision of the panel shall become the judgment of the supreme court thirty (30) days after it is issued unless:

(i) Any member of the supreme court files with the clerk a written request within the thirty-day period that the case be heard by the entire supreme court, in which event a final judgment will not be entered until the supreme court, after due consideration of the case, enters final judgment; or

(ii) Any party to the appeal files a motion requesting review by the entire supreme court within fifteen (15) days after issuance of the decision by the panel, in which event a final judgment will not be entered:

(a) Until the motion is denied; or

(b) If the motion is granted, until the supreme court enters final judgment after its consideration of the case.

(B) For purposes of this subsection (a), a decision of the panel shall be deemed to be issued on the day it is mailed to the parties, which date shall be noted on the decision by the clerk. Section 27-1-122 applies to all motions made pursuant to this subsection (a).

(b) Appeal of all cases under this chapter shall be expedited by:

(1) Giving the cases priority over all cases on the appellate dockets; and

(2) Allowing any case on appeal in the supreme court to be on motion of either party transferred to the division where the supreme court is then or will next be in session.

(c) (1) If the judgment or decree is appealed pursuant to subsection (a), interest on the judgment or decree shall be computed from the date that the judgment is entered by the court of workers' compensation claims at an annual rate as defined in § 47-14-121. For purposes of calculating the accrual of interest pursuant to this subdivision (c)(1), the average prime loan rate on the day the judgment or decree is entered by the trial court shall be used.

(2) Total judgment awarded is computed by the total number of weeks multiplied by the benefit rate without any reduction.

(d) When a reviewing court determines pursuant to motion or sua sponte that the appeal of an employer or insurer is frivolous, or taken for purposes of delay, a penalty may be assessed by the court, without remand, against the appellant for a liquidated amount.

(e) When a reviewing court determines pursuant to motion or sua sponte that the appeal of an employee is frivolous, a penalty may be assessed by the court, without remand, against the appellant for a liquidated amount.

§ 50-6-226. Attorney fees; physician fees; hospital charges

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) The fees of attorneys for services to employees under this chapter, shall be subject to the approval of the workers' compensation judge before which the matter is pending, as appropriate; provided, that no attorney's fees to be charged employees shall be in excess of twenty percent (20%) of the amount of the recovery or award to be paid by the party employing the attorney. The department shall deem the attorney's fee to be reasonable if the fee does not exceed twenty percent (20%) of the award to the injured worker, or, in cases governed by § 50-6-207(4), twenty percent (20%) of the first four hundred fifty (450) weeks of the award. All attorney's fees for attorneys representing employers shall be subject to review for reasonableness of the fee and shall be subject to approval by a workers' compensation judge when the fee exceeds ten thousand dollars ($10,000).

(2) (A) Medical costs that have been voluntarily paid by the employer or its insurer shall not be included in determining the award for purposes of calculating the attorney's fee.

(B) Deleted by 2013 Pub.Acts, c. 289, § 62, eff. July 1, 2014.

(C) In cases that proceed to trial, an employee's attorney shall file an application for approval of a proposed attorney's fee. Where the award of an attorney's fee exceeds ten thousand dollars ($10,000), the court shall make specific findings as to the factors that justify the fee as provided in Tennessee Supreme Court Rule 8, RPC 1.5.

(D) The final order or settlement in all workers' compensation cases shall set out the attorney portion of the award in both dollar and percentage terms and the required findings.

(3) In accident cases that result in death of an employee, the plaintiff's attorney's fees shall not exceed reasonable payment for actual time and expenses incurred when the employer makes a voluntary settlement offer in writing to dependents or survivors eligible under § 50-6-210 within thirty (30) days of the employee's death if the employer offers to provide the dependents or survivors with all the benefits provided under this chapter. The approving authority shall review and approve the settlements on an expedited basis.

(4) The fees of physicians and charges of hospitals for services to employees under this chapter, shall be subject to the approval of the administrator or the court before which the matter is pending, as appropriate, as provided in this subdivision (a)(4). Unless a medical fee or charge is contested, the department shall deem it to be reasonable. If a fee or charge is contested, the department shall permit a party to seek review only of the contested fee or charge in any court with jurisdiction to hear a matter pursuant to § 50-6-225. A court may review the case solely for the purpose of approving the fees and charges that are reasonable.

(b) The charging or receiving of any fee by an attorney in violation of subsection (a) shall be deemed unlawful practice and render the attorney liable to disbarment; and,

further, the attorney shall forfeit double the entire amount retained by the attorney, to be recovered as in case of debt by the injured person or the injured person's creditor.

(c) (1) The fees charged to the claimant by the treating physician or a specialist to whom the employee was referred for giving testimony by oral deposition relative to the claim shall, unless the interests of justice require otherwise, be considered a part of the costs of the case, to be charged against the employer when the employee is the prevailing party.

(2) The workers' compensation judge shall have the discretion to determine the reasonableness of the fee charged by any physician pursuant to this subsection (c).

(3) This subsection (c) applies only to workers' compensation actions arising on or after July 1, 1988.

(d) In addition to any attorneys' fees provided for in this section, the court of workers' compensation claims may award attorneys' fees and reasonable costs, including reasonable and necessary court reporter expenses and expert witness fees for depositions and trials incurred when the employer fails to furnish appropriate medical, surgical and dental treatment or care, medicine, medical and surgical supplies, crutches, artificial members and other apparatus to an employee provided for in a settlement or judgment under this chapter.

(e) A health care provider shall not employ a collection agency or make a report to a credit bureau concerning a private claim against an employer for all or part of the costs of medical care provided to an employee that are not paid by the employer's workers' compensation insurer without having first given notice of the dispute to the medical payment committee. The medical director may include the insurer in the administrative process.

§ 50-6-229. Lump sum payments; commutation

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The amounts of compensation payable periodically under this chapter may be commuted to one (1) or more lump sum payments. These may be commuted upon motion of any party subject to the approval of the circuit, chancery or criminal court. No agreed stipulation or order or any agreement by the employer and employee or any other party to the proceeding shall be a prerequisite to the court's approval or disapproval of the award being paid in one (1) or more lump sum payments. In making the commutation, the lump sum payment shall, in the aggregate, amount to a sum of all future installments of compensation. No settlement or compromise shall be made except on the terms provided in this chapter. In determining whether to commute an award, the trial court shall consider whether the commutation will be in the best interest of the employee, and the court shall also consider the ability of the employee to wisely manage and control the commuted award, regardless of whether special needs exist. Attorneys' fees may be paid as a partial lump sum from any award when approved and ordered by the trial judge.

(b) All settlements of compensation by agreement of the parties and all awards of compensation made by the court of workers' compensation claims, when the amount paid or to be paid in settlement or by award does not exceed the compensation for twenty-six (26) weeks of disability, shall be final and not subject to readjustment.

(c) All amounts paid by the employer and received by the employee or the employee's dependents, by lump sum payments, shall be final, but the amount of any award payable periodically for more than twenty-six (26) weeks may be modified as follows:

(1) At any time by agreement of the parties and approval by the court; or

(2) If the parties do not agree, then at any time after twenty-six (26) weeks from the date of the award, either party may file an application to the court of workers' compensation claims, on the ground of increase or decrease of incapacity due solely to the injury.

§ 50-6-232. Future installments; trusts and trustees

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Any time after the amount of any award has been agreed upon by the parties, or found and ordered by the court, a sum of all future installments of compensation may, where death or the nature of the injury renders the amount of future payments certain, by leave of court, be paid by the employer to any savings bank or trust company of this state to be approved and designated by the court, and the sum, together with all interest on the sum, shall be held in trust for the employee or the dependents of the employee who shall have no further recourse against the employer.

(b) The payment of the sum by the employer evidenced by the receipts of the trustee, which shall be filed with the division, shall constitute satisfaction of the award by the employer.

(c) Payments from the fund shall be made by the trustee in the same amounts and at the same time as are required of the employer until the fund interest is exhausted.

(d) In the appointment of the trustee, preference shall be given, in the discretion of the court of workers' compensation claims, to the choice of the injured employee or the dependent of the deceased employee, as the case may be.

§ 50-6-233. Enforcement of chapter; rules and regulations

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) There is conferred upon the administrator the power to enforce this chapter that relate to the assurance of payments of the awards under this chapter.

(2) In no event shall the division of workers' compensation charge a fee or impose a cost for any necessary or required forms needed to process a workers' compensation claim.

(b) The administrator shall cause the division of workers' compensation to refer all feasible cases for vocational rehabilitation to the department of education.

(c) In addition to the rulemaking authority granted in § 50-6-118, and subsection (a), the administrator or the commissioner of commerce and insurance, as appropriate, may promulgate rules and regulations implementing this chapter. The rules and regulations shall be promulgated pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

§ 50-6-234. Temporary benefits; stopping or changing

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) In any case when the employer has commenced paying temporary disability benefits to the employee and has then stopped or changed the benefits for any cause other than failure of an employee to submit to employer requests for reasonable medical examinations by the treating physician or final settlement, the employee may request the assistance of a workers' compensation mediator who shall mediate the dispute, in accordance with § 50-6-236. If the dispute is not resolved by agreement, the parties may submit the dispute to a workers' compensation judge for resolution after the workers' compensation mediator has issued a dispute certification notice in accordance with § 50-6-236.

(b) After temporary disability payments have commenced, when the injured employee reaches maximum medical improvement and the compensability of the injury has not been contested by the employer, then payments shall continue until the injured employee accepts or rejects a job offered by any employer at a wage equal to or greater than the employee's pre-injury wage, if the employee is able to perform the duties of the position within any restrictions placed on the employee by the physician selected pursuant to § 50-6-204. In no case may temporary payments pursuant to this subsection (b) exceed the lesser of sixty (60) days or the value of the employee's permanent partial disability award calculated solely upon the medical impairment; provided, that these limits may be exceeded if agreed to by all parties. The amount of the payment shall be credited against any permanent award. For purposes of this subsection (b), the determination of attainment of maximum medical improvement and the employee's medical impairment shall be made by the physician selected in accordance with § 50-6-204. Nothing in this subsection (b) shall require an employer to return any employee to work.

§ 50-6-235. Physicians; depositions; medical reports; schedule for charges

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) If a physician refuses to make a reasonable effort to give a deposition in a workers' compensation case within ninety (90) days of receipt of notice, the employee may petition the court for an order requiring the physician to give the deposition.

(2) If the physician does not respond to the petition in a timely fashion, the physician may lose the exemption from subpoena to trial established by § 24-9-101.

(b) For the purpose of subsection (a), the requirement that the physician make a reasonable effort to give a deposition may be presumed to be satisfied if the physician offers to be available to give the physician's deposition within ninety (90) days' of notice at two (2) or more reasonable places and at times within normal business hours, but because of scheduling difficulties on the part of any of the other persons who wish to be present at the deposition, the deposition cannot take place at either of the times and places offered by the physician.

(c) (1) Any party may introduce direct testimony from a physician through a written medical report on a form established by the administrator. The administrator shall establish by rule the form for the report. All parties shall have the right to take the physician's deposition on cross examination concerning its contents. Any written medical report sought to be introduced as evidence shall be signed by the physician making the report bearing an original signature. A reproduced medical report that is not originally signed is not admissible as evidence unless accompanied by an originally signed affidavit from the physician or the submitting attorney verifying the contents of the report. Any written medical report sought to be introduced into evidence shall include within the body of the report or as an attachment a statement of qualifications of the person making the report. The administrator shall, by regulation, fix the fee to be charged by the physician for the preparation and filing of the report and fix penalties for a failure to file the report after a timely request for it by any interested party.

(2) The written medical report of a treating or examining physician shall be admissible at any stage of a workers' compensation claim in lieu of a deposition upon oral examination, if notice of intent to use the sworn statement is provided to the opposing party or counsel not less than twenty (20) days before the date of intended use. If no objection is filed within ten (10) days of the receipt of the notice, the sworn statement shall be admissible as described in this subsection (c). In the event that a party does object, then the objecting party shall depose the physician within a reasonable period of time or the objection shall be deemed to be waived.

(d) The medical payment committee established in § 50-6-125 shall establish a schedule by rule for reasonable charges by physicians for preparing and giving depositions in workers' compensation cases. The schedule may be subject to annual revision. Physicians shall not be permitted to charge more than the amount permitted under the schedule. The rule shall be subject to the approval of the administrator, including annual revisions.

§ 50-6-236. Workers' compensation mediators program

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator shall establish a workers' compensation mediators program to assist injured or disabled employees, persons claiming death benefits, employers and other persons in protecting their rights, resolving disputes, and obtaining information pertinent to workers' compensation laws and practices.

(b) In accordance with rules adopted by the administrator, the mediator shall conduct alternative dispute resolution and the mediator shall:

(1) Mediate all disputes between the parties related to the resolution of a claim for workers' compensation benefits and assist in the adjustment of claims consistent with this chapter and the policies of the administrator;

(2) Thoroughly inform all parties of their rights and responsibilities under this chapter, including the right of any party to be represented by an attorney of the party's choice;

(3) Accept all documents and information presented to the division relating to the employee's wages, medical condition, and any other information pertinent to the resolution of disputed issues and include them in the claim file; and

(4) If the parties reach a full and final settlement, the mediator shall reduce the settlement to writing and each party, or their representative, shall sign. Any settlement reached during alternative dispute resolution proceedings shall not become effective, until it has been approved by a workers' compensation judge in accordance with the procedure provided in this chapter.

(c) (1) When mediation is held, a person representing the employee and the employer, or the employer's insurer, with the authority to settle, shall attend. It shall not be required that the state or its representative who attends mediation have final settlement authority. Parties entering into mediation shall be prepared to mediate all disputed issues at the beginning of mediation and shall mediate all issues in good faith.

(2) When a mediator determines that a party is not prepared to mediate as required or believes a party is not mediating in good faith, the mediator shall include comments to that effect in the dispute certification notice.

(3) The administrator is authorized to promulgate rules to effectuate the purposes of this subsection (c) in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The violation of those rules or this subsection (c) may subject the party or their representative to a civil penalty of not less than fifty dollars ($50.00) or more than five thousand dollars ($5,000).

(d) (1) If the parties are unable to reach settlement of any disputed issues, the mediator shall issue a written dispute certification notice setting forth all unresolved issues for hearing before a workers' compensation judge.

(2) The dispute certification shall be issued on a form prescribed by the administrator and signed by the assigned workers' compensation mediator who shall distribute a copy of the signed dispute certification notice to all parties in accordance with rules adopted by the administrator.

(3) (A) No party is entitled to a hearing before a workers' compensation judge to determine temporary or permanent benefits or to resolve a dispute over the terms of an agreed settlement of a workers' compensation claim, unless a workers' compensation mediator has issued a dispute certification notice setting forth the issues for adjudication by a workers' compensation judge.

(B) Within five (5) business days after a copy of the dispute certification notice signed by the mediator has been distributed to the parties, any party may, on no more than one (1) occasion for each notice, present a written request that the contents of the dispute certification notice be amended to

the mediator who presided over the alternative dispute resolution proceeding.

(C) If a written request to amend the dispute certification notice is presented to the mediator before the expiration of the five (5) business day period provided in subdivision (d)(3)(B), the mediator shall, within three (3) business days after the initial five (5) business day period ends, issue an amended dispute certification notice. If no amended dispute certification notice is signed by the mediator and distributed to the parties, the initial dispute certification notice distributed to the parties pursuant to subdivision (d)(3) shall remain in effect.

(e) A workers' compensation mediator shall not be an advocate for either party and shall mediate all issues without favor or presumption for or against either party. A mediator shall have no authority to order the provision of workers' compensation benefits.

(f) Any person employed as a workers' compensation mediator shall not engage in mediation, litigation, or determination of workers' compensation claims outside of the workers' compensation mediator's duties as a workers' compensation mediator.

(g) If, following a request by the mediator, a party fails to produce documents, to cooperate in scheduling mediation, or to provide a representative authorized to settle a matter in attendance at mediation, then the mediator may issue a dispute certification notice and include a statement detailing the party's failure to cooperate, produce documents or to ensure attendance of a representative authorized to settle the claim. On the motion of either party or on the workers' compensation judge's motion, a workers' compensation judge is authorized, but not required, to hold a hearing on the failure to produce documents requested by the mediator, to cooperate in scheduling and to provide a representative who possessed settlement authority. If the workers' compensation judge determines that the failure lacked good cause or resulted from bad faith, then the workers' compensation judge may assess the offending party who failed to take the requested action with attorney's fees and costs related only to the mediation and the hearing. The administrator is authorized to promulgate rules to effectuate the purposes of this subsection (g) in accordance with the Uniform Administrative Procedures Act.

§ 50-6-237. Court of workers' compensation claims

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

There is created the court of workers' compensation claims in the division of workers' compensation, which shall have original and exclusive jurisdiction over all contested claims for workers' compensation benefits when the date of the alleged injury is on or after July 1, 2014. The administrator shall have sole administrative authority over the court including authority to appoint, and to remove, workers' compensation judges. The administrator shall promulgate rules and regulations consistent with this chapter in order to fulfill the purposes of this chapter in an orderly and efficient manner.

§ 50-6-238. Workers' compensation judges

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) On or after July 1, 2013, the administrator shall appoint qualified individuals to serve as workers' compensation judges. Workers' compensation judges shall be Tennessee licensed attorneys in good standing with at least five (5) years experience in workers' compensation matters and shall be at least thirty (30) years of age. Workers' compensation judges shall be executive service employees of the state as defined in § 8-30-103.

(2) (A) In making the initial appointments, the administrator shall have authority to shorten and stagger the terms of workers' compensation judges to ensure that the terms of no more than seven (7) workers' compensation judges shall terminate at the same time.

(B) Except for the initial appointment of candidates to fill the position of workers' compensation judge, upon appointment, each workers' compensation judge shall serve a term of six (6) years. Terms shall begin on July 1 and expire six (6) years later, on June 30. No workers' compensation judge shall serve more than three (3) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. If a sitting workers' compensation judge is removed or resigns, a vacancy shall exist in the office, which shall be filled for the unexpired term by a person meeting the requirements of subdivision (a)(1).

(C) Any workers' compensation judge may be reappointed by the administrator upon expiration of the term.

(D) If a workers' compensation judge leaves the position prior to the expiration of the term, the administrator shall appoint an individual meeting the qualifications of this section to serve the unexpired portion of the term. The individual may be reappointed by the administrator upon expiration of the term. Any workers' compensation judge appointed to serve less than a full term to fill a vacancy created by the removal or resignation of a sitting workers' compensation judge shall be eligible to serve an additional three (3) full terms.

(3) It shall be the duty of a workers' compensation judge to hear and determine claims for compensation, to approve settlements of claims for compensation, to conduct hearings, and to make orders, decisions, and determinations. Workers' compensation judges shall conduct hearings in accordance with the Tennessee Rules of Civil Procedure, the Tennessee Rules of Evidence and the rules adopted by the division and shall have authority to issue subpoenas and to compel obedience to their judgments, orders, and process through the assessment of a penalty as provided in § 50-6-118.

(b) (1) On or after July 1, 2013, the administrator shall appoint a qualified individual to serve as chief judge of the court of workers' compensation claims. The individual shall be a Tennessee licensed attorney in good standing with at least seven (7) years experience in workers' compensation matters. The chief judge shall be an executive service employee of the state as defined in § 8-30-103.

(2) In addition to performing the duties required of a workers' compensation judge by subdivision (a)(3), it shall be the duty of the chief judge, under the rules adopted by the division, to administer the day to day operations of the court of workers' compensation claims and supervise the activities of workers' compensation judges.

(3) Upon appointment, the chief judge shall serve a term of six (6) years and may be reappointed by the administrator upon expiration of the term. No chief judge of the court of workers' compensation claims shall serve more than two (2) full terms, and service of more than half of a six (6) year term shall constitute service of one (1) full term. Any chief judge of the court of workers' compensation claims appointed to serve less than a full term to fill a vacancy created by the removal or resignation of the previous chief judge shall be eligible to serve an additional two (2) full terms.

(c) Unless otherwise provided by law or clearly inapplicable in context, the Tennessee Code of Judicial Conduct, Rule 10, Canons 1-4, of the Rules of the Tennessee Supreme Court, and any subsequent amendments thereto, shall apply to all workers' compensation judges. However, any complaints regarding the conduct of a workers' compensation judge under the code shall be made to the chief workers' compensation judge. Any complaints about the chief judge shall be made to the administrator.

(d) The administrator shall have authority to remove a workers' compensation judge or the chief judge during an unexpired term for the commission of any of the judicial offenses provided in § 17-5-302.

(e) Any person appointed to serve as a workers' compensation judge or as the chief judge shall be required to take an oath or affirmation to support the constitutions of the United States and of this state, and to administer justice without respect of persons, and impartially to discharge all the duties incumbent upon a judge to the best of the judge's skill and ability. The oath may be taken before another workers' compensation judge, any inferior court judge, a retired judge, a retired chancellor or an active or retired judge of the court of general sessions.

(f) No workers' compensation judge or chief judge shall practice law, or perform any of the functions of attorney or counsel, in any of the courts of this state, except in cases in which the judge may have been employed as counsel previous to the appointment as a workers' compensation judge or chief judge. A newly appointed workers' compensation judge or chief judge can practice law only in an effort to wind up the judge's practice and must end the practice of law as soon as reasonably possible and in no event longer than one hundred eighty (180) days after assuming the position of workers' compensation judge or chief judge.

(g) When considering the appointment of an individual to serve as a workers' compensation judge or as the chief judge, the administrator shall consider comment from the members of the business, labor and legal communities concerning the suitability of the individual for appointment as a workers' compensation judge or the chief judge.

(h) On or after July 1, 2013, the administrator shall appoint a qualified individual to serve as the clerk of the court of workers' compensation claims whose duty it shall be to perform all the clerical functions of the court. The clerk of the court of workers' compensation claims shall be an executive service employee of the state as defined in § 8-30-103.

§ 50-6-239. Dispute certification notice; assignment of claim to workers' compensation judge; hearings; procedures

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Within sixty (60) days after issuance of a dispute certification notice by a workers' compensation mediator, a party seeking further resolution of disputed issues shall file a request for a hearing with the division, and the clerk of the court of workers' compensation claims shall issue notice to all parties identifying the judge to whom the claim has been assigned and the procedure for scheduling and preparing for a hearing.

(b) (1) Unless permission has been granted by the assigned workers' compensation judge, only issues that have been certified by a workers' compensation mediator within a dispute certification notice may be presented to the workers' compensation judge for adjudication.

(2) Following the issuance of a dispute certification notice and assignment of the claim to a workers' compensation judge, the workers' compensation judge may grant permission for parties to present issues that have not been certified by a workers' compensation mediator only upon finding that:

(A) The parties did not have knowledge of the issue prior to issuance of the dispute certification and could not have known of the issue despite reasonable investigation; and

(B) Prohibiting presentation of the issue would result in substantial injustice to the petitioning party.

(c) Hearings of disputes shall be conducted in the following manner:

(1) All hearings shall be conducted within the timeframes adopted by the administrator through the promulgation of rules. The Tennessee Rules of Evidence and the Tennessee Rules of Civil Procedure shall govern proceedings at all hearings before a workers' compensation judge unless an alternate procedural or evidentiary rule has been adopted by the administrator. Whenever the administrator has adopted an alternate procedural or evidentiary rule that conflicts with the Tennessee Rules of Civil Procedure or the Tennessee Rules of Evidence, the rule adopted by the administrator shall apply;

(2) Following the hearing, the workers' compensation judge shall issue a compensation order that sets forth findings of fact and conclusions of law, and, if appropriate, an order for the payment of benefits under the workers' compensation law. The workers' compensation judge shall note the date of entry on the order and a copy of the order shall be distributed to the parties in accordance with procedures adopted by the administrator;

(3) If a party who has filed a request for hearing files a notice of nonsuit of the action, either party shall have ninety (90) days from the date of the order of dismissal to institute an action for recovery of benefits under this chapter;

(4) All hearings before the workers' compensation judge shall be open to the public. The parties may provide a court reporter for the preparation of a record;

(5) The testimony of any witness may be taken by deposition according to the Tennessee Rules of Civil Procedure or may be taken before the workers' compensation judge. No costs shall be charged, taxed or collected by the workers' compensation judge for the appearance of witnesses except fees for witnesses who testify under subpoena. The witnesses shall be allowed the same fee for attendance and mileage as is fixed by law in civil actions;

(6) Unless the statute provides for a different standard of proof, at a hearing the employee shall bear the burden of proving each and every element of the claim by a preponderance of the evidence;

(7) There shall be a presumption that the findings and conclusions of the workers' compensation judge are correct, unless the preponderance of the evidence is otherwise. The decision of the workers' compensation judge shall become final thirty (30) days after the workers' compensation judge enters a compensation order, unless a party in interest seeks an appeal of the decision from the workers' compensation appeals board pursuant to this chapter. If a party in interest does not file a timely request for appeal to the workers' compensation appeals board, the order of the workers' compensation judge shall become final and may be appealed to the state supreme court in the manner provided by § 50-6-225;

(8) The workers' compensation judge may, in his discretion, assess discretionary costs including reasonable fees for depositions of medical experts against the employer upon adjudication of the employee's claim as compensable;

(9) After an order entered by a workers' compensation judge has become final, the parties subject to the order shall have five (5) business days after all appeals are exhausted to comply with the order or the noncompliant parties shall be subject to penalization as provided by § 50-6-118;

(10) In any claim where the employee has suffered a catastrophic injury, the workers' compensation judge assigned to the claim shall have discretion to order that the claim be heard on an expedited basis. If the assigned workers' compensation judge orders an expedited hearing of the claim, the claim shall be given priority over all cases on the workers' compensation judge's trial docket with the exception of any other claims that the workers' compensation judge has previously ordered to be heard on an expedited basis under this subdivision (c)(10).

(d) Hearings of disputes on an expedited basis shall be conducted in the following manner:

(1) Upon motion of either party made at any time after a dispute certification notice has been issued by a workers' compensation mediator, a workers' compensation judge may, at the judge's discretion, hear disputes over issues provided in the dispute certification notice concerning the provision of temporary disability or medical benefits on an expedited basis and enter an interlocutory order upon determining that the injured employee would likely prevail at a hearing on the merits. A copy of the motion shall be served by the moving party on all other parties to the claim in accordance with procedures adopted by the administrator;

(2) A workers' compensation judge is not required to hold a full evidentiary hearing before issuing an interlocutory order for temporary disability or medical benefits;

(3) If temporary disability or medical benefits are ordered, the employer shall have seven (7) business days to comply with the order or to request an appeal from the workers' compensation appeals board. Unless modified by the workers' compensation appeals board following an appeal or unless a subsequent order to modify an interlocutory order for temporary disability or medical benefits is issued by the workers' compensation judge presiding over the claim, the interlocutory order shall remain in effect pending conclusion of the matter by hearing according to the procedure provided in subsection (c);

(4) If a motion for temporary disability or medical benefits is denied on the basis that the claim is not compensable, the proceeding shall continue according to the procedure provided in subsection (c) unless the employee files a request for an appeal to the workers' compensation appeals board. At any time after the employee has exhausted the procedures for seeking an appeal from the workers' compensation appeals board, as provided in this chapter, the workers' compensation judge may entertain an appropriate motion from the employer for dismissal of the claim.

(e) All discovery disputes, including motions to compel and for protective order, shall be adjudicated upon the review of written motions and affidavits. A workers' compensation judge may, in the judge's discretion, convene a hearing on a discovery dispute only upon a finding that good cause to convene a hearing exists.

(f) The failure of any party to comply in a timely manner with an interlocutory or final order issued by a workers' compensation judge may result in the assessment of a penalty as provided in § 50-6-118.

(g) The administrator shall have authority to assess a filing fee sufficient to offset the cost of administering this chapter.

(h) Except as otherwise provided in § 50-6-118, no order issued by a workers' compensation judge shall be subject to judicial review pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

§ 50-6-240. Settlements

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) A workers' compensation judge may approve a proposed settlement among the parties if:

(1) The settlement agreement has been signed by the parties; and

(2) The workers' compensation judge has determined that the employee is receiving, substantially, the benefits provided by this chapter, or, in cases subject to subsection (d), if the workers' compensation judge has determined that the settlement is in the best interest of the employee.

(b) A workers' compensation judge shall approve or reject settlements submitted to the division within three (3) business days after the settlement has been received by the division and assigned to a workers' compensation judge for consideration.

(c) In approving settlements, a workers' compensation judge shall consider all pertinent factors and if the injured employee is not represented by counsel, then the workers' compensation judge shall thoroughly inform the employee of the scope of benefits available under this chapter and the employee's rights and the procedures necessary to protect those rights.

(d) Notwithstanding any other provision of this chapter, an employee who is determined to be permanently and totally disabled shall not be allowed to compromise and settle the employee's rights to future medical benefits.

(e) Notwithstanding any other provision of this section, if there is a dispute between the parties as to whether a claim is compensable, or as to the amount of compensation due, the parties may settle the matter without regard to whether the employee is receiving substantially the benefits provided by this chapter; provided, that the settlement is determined by a workers' compensation judge to be in the best interest of the employee.

§ 50-6-241. Maximum permanent partial disability benefits

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Deleted by 2013 Pub.Acts, c. 289, § 89, eff. July 1, 2014.

(b) Deleted by 2013 Pub.Acts, c. 289, § 89, eff. July 1, 2014.

(c) Deleted by 2013 Pub.Acts, c. 289, § 89, eff. July 1, 2014.

(d) (1) (A) For injuries occurring on or after July 1, 2004, but before July 1, 2014, in cases in which an injured employee is eligible to receive any permanent partial disability benefits either for body as a whole or for schedule member injuries, except schedule member injuries specified in § 50-6-207(3)(A)(ii)(a)-(l), (n), (q), and (r), and the pre-injury employer returns the employee to employment at a wage equal to or greater than the wage the employee was receiving at the time of the injury, the maximum permanent partial disability benefits that the employee may receive is one and one half (1 ½) times the medical impairment rating determined pursuant to § 50-6-204(d)(3). In making the determinations, the court shall consider all pertinent factors, including lay and expert testimony, the employee's age, education, skills and training, local job opportunities and capacity to work at types of employment available in claimant's disabled condition.

(B) (i) If an injured employee receives benefits for body as a whole injuries pursuant to subdivision (d)(1)(A) and the employee is subsequently no longer employed by the pre-injury employer at the wage specified in subdivision (d)(1)(A) within four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, the employee may seek reconsideration of the permanent partial disability benefits. Employees who continue in their employment after a reduction in pay or a reduction in hours due to economic conditions shall not be entitled

to reconsideration of their claims under this section if the reduction in pay or reduction in hours affected at least fifty percent (50%) of all hourly employees operating at or out of the same location. This provision does not apply to or include employees involved in layoffs, closures or a termination of business operations.

(ii) If an injured employee receives benefits for schedule member injuries pursuant to subdivision (d)(1)(A), and the employee is subsequently no longer employed by the pre-injury employer at the wage specified in subdivision (d)(1)(A), the employee may seek reconsideration of the permanent partial disability benefits. The right to seek the reconsideration shall extend for the number of weeks for which the employee was eligible to receive benefits under § 50-6-207, beginning with the day the employee returned to work for the pre-injury employer. Employees who continue in their employment after a reduction in pay or a reduction in hours due to economic conditions shall not be entitled to reconsideration of their claims under this section if the reduction in pay or reduction in hours affected at least fifty percent (50%) of all hourly employees operating at or out of the same location. This provision does not apply to or include employees involved in layoffs, closures or a termination of business operations.

(iii) Notwithstanding this subdivision (d)(1)(B), under no circumstances shall an employee be entitled to reconsideration when the loss of employment is due to either:

(a) The employee's voluntary resignation or retirement; provided, however, that the resignation or retirement does not result from the work-related disability that is the subject of such reconsideration; or

(b) The employee's misconduct connected with the employee's employment.

(iv) To seek reconsideration pursuant to subdivision (d)(B)(i) or (d)(B)(ii), the employee shall first request a benefit review conference within one (1) year of the date on which the employee ceased to be employed by the pre-injury employer. If the parties are not able to reach an agreement regarding additional permanent partial disability benefits at the benefit review conference, the employee shall be entitled to file a complaint seeking reconsideration in a court of competent jurisdiction within ninety (90) days of the date of the benefit review conference. Any settlement or award of additional permanent partial disability benefits pursuant to reconsideration shall give the employer credit for prior permanent partial disability benefits paid to the employee. Any new settlement or award regarding additional permanent partial disability benefits remains subject to the maximum established in subdivision (a)(2) and shall be based on the medical impairment rating that was the basis of the previous settlement or award.

(v) Notwithstanding any other provision of law to the contrary, an employee shall not be permitted to waive or forfeit, and the parties

shall not be permitted to compromise and settle, the employee's rights to reconsideration pursuant to this section.

(C) (i) Notwithstanding any other law to the contrary, for injuries occurring on or after July 1, 2009, but before July 1, 2014, if an injured employee receives permanent partial disability benefits for body as a whole injuries or if the injured employee receives permanent partial disability benefits for schedule member injuries pursuant to subdivision (d)(1)(A) and the pre-injury employer is sold or acquired subsequent to the receipt of the permanent partial disability benefits, then the injured employee shall not be entitled to seek reconsideration:

(a) Provided, that the injured employee continues to be employed by the successor employer at the same or higher pay; or

(b) If the employee declines an offer of employment with the successor employer at the same or higher pay.

(ii) Notwithstanding subdivision (d)(1)(C)(i), an injured employee shall be entitled to seek reconsideration:

(a) From the successor employer within four hundred (400) weeks of the day the employee returned to work for the pre-injury employer, if the injured employee received permanent partial disability benefits for body as a whole injuries from the pre-injury employer pursuant to subdivision (d)(1)(A) and the injured employee is no longer employed by the successor employer at the same or higher pay; or

(b) From the successor employer within the number of weeks for which the employee was eligible to receive benefits from the pre-injury employer under § 50-6-207, to be calculated from the day the employee returned to work for the pre-injury employer, if the injured employee received permanent partial disability benefits for schedule member injuries from the pre-injury employer pursuant to subdivision (d)(1)(A) and the injured employee is no longer employed by the successor employer at the same or higher pay.

(iii) Any additional permanent partial disability benefits to which the injured employee is entitled pursuant to subdivision (d)(1)(C)(ii) shall be paid by the successor employer or the insurance carrier for the successor employer.

(iv) If an injured employee is entitled to seek reconsideration pursuant to this subdivision (d)(1)(C), then the employee shall first request a benefit review conference within one (1) year of the date on which the employee ceased to be employed by the successor employer. If the parties are not able to reach an agreement regarding additional permanent partial disability benefits at the benefit review conference, then the employee shall be entitled to file a complaint against the successor employer seeking reconsideration in a court of competent jurisdiction within ninety (90) days of the date of the benefit review conference. Any settlement or award of additional permanent partial

disability benefits pursuant to reconsideration shall give the successor employer credit for the prior permanent partial disability benefits paid by the pre-injury employer to the employee. Any new settlement or award regarding additional permanent partial disability benefits shall be subject to the maximum established in subdivision (d)(2).

(2) (A) For injuries arising on or after July 1, 2004, but before July 1, 2014, in cases in which the pre-injury employer did not return the injured employee to employment at a wage equal to or greater than the wage the employee was receiving at the time of the injury, the maximum permanent partial disability benefits that the employee may receive for body as a whole and schedule member injuries may not exceed six (6) times the medical impairment rating determined pursuant to § 50-6-204(d)(3). The maximum permanent partial disability benefits to which the employee is entitled shall be computed utilizing the appropriate maximum number of weeks as set forth in § 50-6-207 for the type of injury sustained by the employee. In making such determinations, the court shall consider all pertinent factors, including lay and expert testimony, the employee's age, education, skills and training, local job opportunities, and capacity to work at the types of employment available in claimant's disabled condition.

(B) If the court awards a permanent partial disability percentage that equals or exceeds five (5) times the medical impairment rating, the court shall include specific findings of fact in the order that detail the reasons for awarding the maximum permanent partial disability.

(e) (1) It is the intent of the general assembly to adopt as public policy for this state specific provisions related to workers' compensation to preserve the tradition of legal immigration while seeking to close the door to illegal workers in this state and to encourage the employers of this state to comply with federal immigration laws in the hiring or continued employment of individuals who are not eligible or authorized to work in the United States.

(2) The general assembly takes notice that federal law prohibits a pre-injury employer from permitting an employee to return to work following the work-related injury when the employee is not eligible or authorized to work in the United States pursuant to federal immigration laws; and, therefore, the general assembly adopts the following as the compensation to which such an employee is entitled for permanent partial disability benefits:

(A) For injuries occurring on or after July 1, 2009, but before July 1, 2014, in cases in which an injured employee is eligible to receive any permanent partial disability benefits either for body as whole or schedule member injuries, the maximum permanent partial disability benefits that the employee may receive is up to one and one half (1 ½) times the medical impairment rating determined pursuant to § 50-6-204(d)(3); provided, that the employer did not knowingly hire the employee at a time when the employee was not eligible or authorized to work in the United States under federal immigration laws. It shall be presumed the employer did not knowingly hire the employee at a time when the employee was not eligible or authorized to work in the United States under federal immigration laws if the employer can show, by a preponderance of the evidence, that the

employer in good faith complied with the employment eligibility and identity verification requirements of federal law when the employee was hired:

(i) By ensuring the employee completed Section 1 of Form I-9 at the time the employee started to work;

(ii) By reviewing the documents provided by the employee to establish the employee's identity and eligibility to work;

(iii) By making a good faith determination that the documents presented by the employee for employment and identity authorization appeared to relate to the employee, appeared to be genuine and that the documents provided were in the list of acceptable documents on Form I-9; and

(iv) By reverifying the employment eligibility of the employee upon the expiration of the employee's work authorization and by completing Section 3 of Form I-9, if applicable;

(B) The presumption established in subdivision (e)(2)(A) may be rebutted if the employee can show, by a preponderance of the evidence, that the employer had actual knowledge of the ineligible or unauthorized status of the employee at the time of hire or at the time of the injury, or both. If the presumption is rebutted, a sum of up to five (5) times the medical impairment rating determined by the authorized treating physician pursuant to § 50-6-204(d)(3) shall be paid in the following manner:

(i) A sum up to one and one half (1 ½) times the medical impairment rating shall be paid in a lump sum to the employee, the sum to be paid by the employer's insurer; and

(ii) An additional sum up to three and one half (3 ½) times the medical impairment rating shall be paid by the employer, in a lump sum into, and shall become a part of, the uninsured employers fund created by § 50-6-801; provided, that the sum shall not be paid by the employer's insurer.

§ 50-6-242. Additional disability benefits; permanent partial disability award

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) This subsection (a) shall apply to injuries that occur on or after July 1, 2014, but shall not apply to injuries that occur after June 30, 2016.

(2) For injuries that occur during the time period set out in subdivision (a)(1), in extraordinary cases where the employee is eligible for increased benefits under § 50-6-207(3)(B), the employee may receive disability benefits of sixty-six and two-thirds percent (66 ⅔ %) of the employee's pre-injury average weekly wage or salary for a period not to exceed the two hundred seventy-five (275) weeks inclusive of the benefits provided to the employee under § 50-6-207(3)(A). Benefits may be awarded pursuant to this subsection (a), in lieu of the increased benefits for which the employee is eligible under § 50-6-207(3)(B), if the presiding

workers' compensation judge first determines based on clear and convincing evidence that limiting the employee's recovery to the benefits provided by § 50-6-207(3)(B) would be inequitable in light of the totality of the circumstances and the presiding workers' compensation judge makes specific, documented findings that as of the date of the award or settlement the three (3) following facts concerning the employee are true:

(A) The employee has been assigned an impairment rating of at least ten percent (10%) to the body as whole, that has been determined according to the AMA guides as defined by § 50-6-102, by the authorized treating physician;

(B) The authorized treating physician has certified on a form provided by the division that due to the permanent restrictions on activity the employee has suffered as a result of the injury the employee no longer has the ability to perform the employee's pre-injury occupation. The authorized treating physician's certification pursuant to this subdivision (a)(2)(B) shall have a presumption of correctness that may be overcome by the presentation of contrary clear and convincing evidence; and

(C) The employee is not earning an average weekly wage or salary that is greater than or equal to seventy percent (70%) of the employee's pre-injury average weekly wage or salary.

(b) For those injuries that occur on or after July 1, 2004 but prior to July 1, 2014, and notwithstanding any provision of this chapter to the contrary and in appropriate cases where the employee is eligible to receive the maximum permanent partial disability award under § 50-6-241(d)(1)(B) or (d)(2), the employee may receive disability benefits not to exceed the appropriate maximum number of weeks as set forth in § 50-6-207 for the type of injury sustained by the employee. In those cases, the court or workers' compensation specialist shall make specific documented findings, supported by clear and convincing evidence, that as of the date of the award or settlement, at least three (3) of the following facts concerning the employee are true:

(1) The employee lacks a high school diploma or general equivalency diploma or the employee cannot read or write on a grade eight (8) level;

(2) The employee is fifty-five (55) years of age or older;

(3) The employee has no reasonably transferable job skills from prior vocational background and training; and

(4) The employee has no reasonable employment opportunities available locally considering the employee's permanent medical condition.

(c) Subsections (a) and (b) shall not apply to injuries sustained on or after July 1, 2009, by an employee who is not eligible or authorized to work in the United States under federal immigration laws.

§ 50-6-244. Statistical data form

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The department shall develop a statistical data form for collecting data relevant to assessing the workers' compensation system. In developing or altering the form, the department shall seek written comment from the advisory council on workers' compensation and the administrative office of the courts. The administrator shall submit the proposed form to the commerce and labor committee of the senate, and the consumer and human resources committee of the house of representatives, together with any written comments of the advisory council on workers' compensation and the administrative office of the courts, prior to submission of a proposed rule to the attorney general and reporter. The administrator shall promulgate the form by rule, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) (1) A statistical data form shall be filed for every workers' compensation matter that is concluded by settlement, whether approved by a court or the department. A statistical data form shall be filed for every workers' compensation matter that is concluded by a trial so that the form reflects the trial court's ruling and information that is current as of the date the trial order is submitted to the court for approval, whether or not an appeal of the matter is anticipated or filed. A statistical data form shall be either typed or completed by computer using a form available on the web site of the division of workers' compensation.

(2) A statistical data form is not required to be filed in cases that involve reconsideration of a prior settlement or trial judgment order for which a statistical data form was filed at the time of submission of the prior order. A statistical data form is not required to be filed if the only issue resolved by an order is the closing of future medical benefits that remained open pursuant to a prior order for which a statistical data form was filed at the time of submission of the prior order.

(3) In cases involving a workers' compensation settlement that is approved by a court, the completed statistical data form shall be filed at the same time as the order approving the settlement is filed and shall be filed with the clerk of the court in which the settlement order is filed. A clerk of the court shall not accept a settlement order for filing, unless it is accompanied by a fully completed statistical data form.

(4) In cases involving a workers' compensation case that is resolved by trial, the completed statistical data form shall be filed at the same time as the final order is submitted to the trial court for approval and shall be filed with the clerk of the court in which the matter was tried. A clerk of the court shall not accept a trial order for filing, unless it is accompanied by a fully completed statistical data form.

(5) A settlement order of a court in a workers' compensation matter is not final until the statistical data form required by this section is fully completed and filed with the appropriate clerk of the court.

(6) A workers' compensation trial order is not final until the statistical data form required by this section is fully completed and filed with the appropriate clerk of the court. In the event of an appeal of a workers' compensation trial verdict to the supreme court of Tennessee, this section shall neither abrogate nor supersede the Rules of Appellate Procedure regarding the computation of the time for the proper filing of a notice of appeal. The information submitted in the statistical data form shall not be admissible on appeal for any purpose.

(c) The clerk of the court shall forward to the administrator of the division of workers' compensation, on or before the tenth day of each calendar month, all workers' compensation statistical data forms filed with the clerk during the preceding calendar month.

(d) In cases involving a workers' compensation settlement that is submitted to the department for approval, the statistical data form required by this section shall also be completed and submitted to the department at the time of the submission of the settlement for approval. A settlement approved by the department shall not become final until the statistical data form required by this section is fully completed and received by the department.

(e) It is the responsibility of the employer or the employer's agent to complete and file the form required by this section, contemporaneously with the filing of the final order or settlement. The employee and any agent of the employee are required to cooperate with the employer in completing this form.

(f) (1) If the administrator or the administrator's designee determines that an insurer or self-insured employer fails to complete substantially and file the statistical data forms with such frequency as to indicate a general business practice, the administrator may assess a monetary penalty against the insurance company for the employer or against the employer, if self insured. The amount of the monetary penalty shall not exceed one hundred dollars ($100). For the purposes of this subsection (f), "general business practice" means an insurer or self-insured employer fails to complete substantially and file a statistical data form more than five (5) times.

(2) No monetary penalty may be assessed by the administrator, or the administrators's designee, with respect to a form that has been filed with the division of workers' compensation for more than ninety (90) days. No monetary penalty may be assessed for a statistical data form that was not filed with the court clerk more than ninety (90) days from the date of entry of the final order of the court. No monetary penalty may be assessed due to the failure to provide information on the statistical data form that is solely within the knowledge of the employee or due solely to the failure of the employee to sign the form.

(3) An insurance company or self insured employer assessed a monetary penalty by the administrator pursuant to this subsection (f), may appeal the penalty under the Uniform Administrative Procedures Act. The administrator, or an agency member appointed by the administrator, shall have the authority to hear as a contested case an administrative appeal of any monetary penalty assessed pursuant to this subsection (f).

§ 50-6-245. Appeal of multiple findings; payment of separate awards

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) If following a civil action in a workers' compensation case filed pursuant to § 50-6-225, the court enters a judgment or decree that includes multiple findings with separate awards of payment to the employee, the following shall apply:

(1) If the employer, insurer or employee appeals one (1) or more of the findings but not all, any payments owed to the employee as the result of a finding not appealed shall be due and payable to the employee when the time for appealing the judgment or decree has expired.

(2) If the employer, insurer or employee appeals more than one (1) of the findings and the supreme court grants permission to appeal as to at least one (1) of the findings appealed but not all, any payments owed to the employee as the result of a finding not appealed or for which permission to appeal was not granted shall be due and payable to the employee when the time for appealing the judgment or decree has expired.

(b) (1) When the time for filing an appeal has expired under subdivision (a)(1), the court, unless in its discretion it determines otherwise, shall enter final judgment pursuant to Rule 54.02 of the Rules of Civil Procedure as to all findings not appealed.

(2) When the time for filing an appeal has expired under subdivision (a)(2), the supreme court, unless in its discretion it determines otherwise, shall issue a mandate pursuant to Rule 42 of the Rules of Appellate Procedure as to all findings for which permission to appeal was not granted.

§ 50-6-302. Retroactivity; coal workers pneumoconiosis

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) An occupational disease that an employee had on March 12, 1947, shall not be covered under this chapter. An employee has an occupational disease within the meaning of this chapter if the disease or condition has developed to such an extent that it can be diagnosed as an occupational disease. In every suit for compensation benefits, the burden shall be on the employee to prove that the employee did not have, as of that date, the occupational disease for which the employee is seeking compensation.

(b) In considering whether an employee has the occupational disease of coal worker's pneumoconiosis and is totally disabled or dies from coal worker's pneumoconiosis, all the presumptions, criteria and standards contained in or promulgated by reason of the federal Coal Mine Health and Safety Act of 1969, Pub. L. No. 91-173, compiled in 30 U.S.C. § 901 et seq., specified as the basis for determining eligibility of applicants for benefits because of the disease or its effects shall be used and be applicable under this chapter, and where in a proceeding under this chapter for benefits it is determined the employee or the employee's dependents would be entitled to benefits under the

federal Coal Mine Health and Safety Act of 1969, and the Black Lung Benefits Act of 1972, Pub. L. No. 92-303, compiled in 30 U.S.C. § 901 et seq., the employee or the employee's dependents by reason of the determination shall be considered totally disabled from coal worker's pneumoconiosis and its effects, under this chapter the same as if the employee, or the employee's dependents, establishes the right to recover benefits based upon a total disability from coal worker's pneumoconiosis, or death by reason of coal worker's pneumoconiosis under the laws of this state.

§ 50-6-303. Compensation; benefits

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) When the employer and employee are subject to this chapter, the partial or total incapacity for work or the death of an employee resulting from an occupational disease as defined in § 50-6-301, shall be treated as the happening of an injury by accident or death by accident, and the employee, or in case of the employee's death, the employee's dependents, shall be entitled to compensation as provided in this chapter.

(2) An employee who has an occupational disease shall be entitled to the same hospital, medical and miscellaneous benefits as an employee who has a compensable injury by accident, and, in the event of death, the same funeral benefit shall be paid as in the case of death from a compensable accident.

(b) (1) An employee totally disabled due to coal workers' pneumoconiosis shall be paid benefits during disability as provided for by the federal Coal Mine Health and Safety Act of 1969, compiled in 30 U.S.C. § 901 et seq.

(2) In accordance with the federal Coal Mine Health and Safety Act of 1969, if the employee has one (1) or more dependents, the payments shall be increased fifty percent (50%) of such payments for the first dependent, seventy-five percent (75%) for two (2) dependents, and one hundred percent (100%) for three (3) or more dependents.

(3) In case of death of an employee receiving benefits under this chapter, benefits shall be paid to that employee's surviving spouse and any dependents in the same manner provided in the federal Coal Mine Health and Safety Act of 1969, as applicable to employees suffering from coal workers' pneumoconiosis.

(4) Benefits paid under this subsection (b) shall not be subject to the maximum compensation limitations set forth in §§ 50-6-205, 50-6-207(1), (3) and (4), 50-6-209, 50-6-210(e)(10) or any other sections of this chapter, but the maximum compensation limitations shall be controlled exclusively by the maximum compensation benefits and limitations established under the federal Coal Mine Health and Safety Act of 1969, as applicable to employees suffering from coal workers' pneumoconiosis.

(5) The minimum compensation limitations for employees suffering from coal workers' pneumoconiosis shall be no less than those set forth in the federal Coal Mine Health and Safety Act of 1969.

§ 50-6-304. Last injurious exposure; liable employer

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

When an employee has an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable, for the occupational disease, without right to contribution from any prior employer or insurance carrier.

§ 50-6-305. Notice of disease

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Within thirty (30) days after the first distinct manifestation of an occupational disease, the employee, or someone in the employee's behalf, shall give written notice thereof to the employer in the same manner as is provided in the case of a compensable accidental injury.

(b) This section shall not apply to claims for total disability or death due to or resulting from an asbestos-related disease or coal worker's pneumoconiosis.

§ 50-6-306. Limitation of actions

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) The right to compensation for an occupational disease or a claim for death benefits as a result of an occupational disease shall be forever barred, unless a claim is initiated pursuant to § 50-6-203; provided, however, that the applicable time limitation period or periods shall commence as of the date of the beginning of the incapacity for work resulting from an occupational disease or upon the date death results from the occupational disease; provided, further, that if upon the date of the death of the employee the employee's claim has become barred, the claim of the employee's dependent or dependents shall likewise be barred, and in that case the claim shall be barred whether or not the employer gives the notice required by § 50-6-224(2).

(b) A claim for benefits or death due to coal worker's pneumoconiosis shall be timely filed if the claim is instituted pursuant to § 50-6-203 within three (3) years of the discovery of total disability or the date of death, as the case may be.

§ 50-6-307. Aggravation of condition; waiver of compensation

Effective: July 10, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) When an employee, or prospective employee, though not incapacitated for work, is found to be affected by or susceptible to a specific occupational disease, the employee or prospective employee may, subject to the approval of the workers' compensation division of the department of labor and workforce development, be

permitted to waive in writing compensation for any aggravation of the employee's or prospective employee's condition that may result from the employee's or prospective employee's working or continuing to work in the same or similar occupation for the same employer or for another employer; provided, that this provision shall not apply to specific occupational diseases on which waivers are prohibited by the federal Coal Mine Health and Safety Act of 1969, compiled in 30 U.S.C. § 901 et seq.

(2) All provisions of this chapter, with respect to accidents shall be applicable to the coverage provided in this part for occupational diseases, except as otherwise provided in this part.

(b) When an employee or prospective employee has a prior history of heart disease, heart attack or coronary failure or occlusion, the employee or prospective employee may be permitted to waive in writing compensation from the employee's or prospective employee's employer or future employer for claims growing out of an aggravation or repetition of the condition, the waiver to be evidenced by filing with the administrator a written instrument to which shall be attached a copy of a medical statement giving the prior history of the condition, and in all those cases claims for workers' compensation benefits growing out of an aggravation or repetition of the condition by the employee or the employee's dependents shall be barred.

(c) No employer shall require the execution of a waiver by any employee who was at work on March 17, 1961, unless the employee subsequently suffers a heart condition.

§ 50-6-401. Authority to write; taxation

Effective: April 23, 2013

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) (A) Every person, partnership, association, organization or corporation, whether organized under the laws of this or any other state or country, that has or may hereafter comply with the laws of this state and is authorized to write accident or indemnity insurance in this state shall be authorized and empowered to write workers' compensation insurance under the terms and provisions of this part, and likewise every reciprocal and mutual insurance association or corporation shall have the same privileges; provided, that any such entity offering workers' compensation insurance shall be required to offer medical benefits coverage for paid-on-call and volunteer firefighters.

(B) For purposes of this subdivision (a)(1), "volunteer firefighter" means any member or personnel of a fire department, volunteer fire department, rescue squad or volunteer rescue squad, including, but not limited to, a junior member, a board member or an auxiliary member of the department or squad.

(2) An entity offering workers' compensation insurance shall offer coverage for members of rescue squads on similar terms and conditions as coverage available to full-time paid firefighters or emergency medical services personnel.

(b) (1) All insurance carriers provided for by this section shall be subject to a tax of four percent (4%) on premiums collected for workers' compensation insurance, and

a surcharge of four tenths of one percent (0.4%) of the premiums, the surcharge to be earmarked for the administration of the Tennessee Occupational Safety and Health Act, compiled in chapter 3 of this title, and this shall be in lieu of any other tax on premiums for the writing of the business of workers' compensation insurance now provided for by law.

(2) The surcharge of four tenths of one percent (0.4%) on the tax on workers' compensation insurance premiums levied by this section shall not apply to any employer who employs ten (10) or fewer employees unless the employer is in the business of construction or manufacturing.

(c) Of the funds collected pursuant to subsection (b), a sum sufficient shall be allocated from and equal to an amount not greater than fifty percent (50%) of the revenues derived from the premium tax levied pursuant to this section, and shall be paid into the second injury fund created in § 50-6-208, to provide payments for the benefits provided in § 50-6-208.

§ 50-6-402. Risk and premium classifications; advisory prospective loss cost filings

Effective: April 19, 2013

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) In determining classifications of risks and premiums relating to the classification, the insurer may include allowances of any character made to any employee, only when the allowances are in lieu of wages, and are specified as part of the wage contract.

(b) Before approving any workers' compensation loss cost filing made by the designated rate service organization pursuant to this part or title 56, the commissioner of commerce and insurance shall consult with the advisory council on workers' compensation concerning the filing. The council shall have sixty (60) days to provide written comment on the filing. The council shall meet to provide the comment. The commissioner of commerce and insurance shall approve, disapprove or modify the filing within ninety (90) days of receiving the filing. If the commissioner of commerce and insurance modifies the filing, the modification shall be within the range established by the recommendation of the rate service organization in its filing and the recommendation of the advisory council on workers' compensation. In instances when the commissioner of commerce and insurance modifies the filing, the rate service organization shall develop a plan that reflects the commissioner's modification, unless the organization appeals the modification pursuant to § 56-5-308. The commissioner shall report the action taken on the filing to the commerce and labor committee of the senate, and the consumer and human resources committee of the house of representatives and to the speakers of the senate and the house of representatives.

(c) Prior to the commissioner of commerce and insurance establishing the multiplier to be applied to the assigned risk plan, as provided in § 56-5-314(c), the commissioner shall provide notice of the intended action, including supporting rationale for the action, to the advisory council on workers' compensation. The council may, within fifteen (15) days of receipt of the notice, provide written comment and recommendation

to the commissioner related to the intended action. After the fifteen-day period has expired, the commissioner shall establish the multiplier, by order, as provided in § 56-5-314(c).

(d) The commissioner of commerce and insurance shall report quarterly to the advisory council on workers' compensation concerning all workers' compensation filings made by the designated rate service organization received by the department of commerce and insurance that were not referred to the council as set out in subsection (b) since the last report.

§ 50-6-404. Bonds; certificates and certification

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) Every insurance company doing a workers' compensation business in this state shall furnish a bond running to the state in the sum of fifty thousand dollars ($50,000) with some surety company authorized to transact business in this state as surety, in the form approved by the commissioner of commerce and insurance, conditioned for the payment of compensation losses on policies issued by the company upon risks located in the state.

(2) Suit may be brought upon the bond by the division of workers' compensation for the use and benefit of any party or parties at interest.

(3) The annual license of the company shall not be issued or renewed until it has filed with the commissioner of commerce and insurance a bond as required in subdivision (a)(1).

(4) In lieu of the bond, a deposit of the same amount may be made with the state treasurer in the form of other security satisfactory to the commissioner of commerce and insurance.

(b) The commissioner may, in the commissioner's discretion, accept, in lieu of the bond required in subdivision (a)(1), a certificate from the commissioner of insurance or other corresponding official of the state in which the insurance company is organized and domiciled, that the company has on deposit in such state the sum of not less than one hundred thousand dollars ($100,000) in cash, or its equivalent, which deposit is for the protection of all of its policyholders, ratably.

§ 50-6-405. Insurance or proof of financial ability; securities or bond; pooling liabilities

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Every employer under and affected by this chapter, shall:

(1) Insure and keep insured the employer's liability under this chapter in some person or persons, association, organization or corporation authorized to transact the business of workers' compensation insurance in this state; or

(2) Possess a valid certificate of authority from the commissioner of commerce and insurance by furnishing satisfactory proof of the employer's financial ability

to pay all claims that may arise against the employer under this chapter and guarantee the payment of the claims in the amount and manner and when due as provided for in this chapter.

(b) (1) If the employer elects to proceed under subdivision (a)(2), the commissioner of commerce and insurance shall require the applicant to pay a nonrefundable application fee of five hundred dollars ($500) or in an amount the commissioner shall promulgate by rule.

(2) The commissioner of commerce and insurance shall require the applicant to file and maintain with the department of commerce and insurance the following:

(A) (i) Security, in an amount to be determined by the commissioner of commerce and insurance, but not less than five hundred thousand dollars ($500,000), in any of the following forms, as specified herein: negotiable securities; a surety bond; a certificate of deposit; or a letter of credit;

(ii) The security, or a contract between the self-insured employer, a depository institution and the commissioner of commerce and insurance evidencing the security held in the depository institution for purposes of compliance with this section, shall be held by the commissioner of commerce and insurance and shall be conditioned to run solely and directly for the benefit of the employees of the self-insured employer. Any legal actions to enforce the payment of the security being held for purposes of compliance with this section shall be brought by the commissioner of commerce and insurance for the benefit of the employees of the self-insured employer;

(iii) The security held pursuant to this section may be used for the payment of any and all fees or costs required to administer the disbursement of the proceeds to or for the benefit of the employees;

(iv) The venue for any suit filed by the commissioner of commerce and insurance under this provision shall be in Davidson County.

(v) (a) Any security held for purposes of compliance with this section shall be held for a minimum of ten (10) years after the self-insured employer is no longer self-insured and the self-insured employer shall maintain the fair market value of security on deposit at not less than five hundred thousand dollars ($500,000), unless otherwise approved by the commissioner of commerce and insurance or the commissioner's designee;

(b) Any employer that is no longer self-insured pursuant to this section as of December 31, 2004, shall not be subject to subdivision (b)(2)(A)(v)(a).

(vi) All security, and contracts evidencing the security, filed with the commissioner of commerce and insurance shall be in a form substantively that has been previously approved by the commissioner of commerce and insurance. Any security that fails to meet any requirement under this section shall not be considered for purposes of determining a self-insurer's compliance with any of the security maintenance requirements of this section;

(vii) As used in this subdivision (b)(2)(A), "qualified United States financial institution" shall have the meaning assigned by § 56-2-209(a);

(viii) The commissioner of commerce and insurance may by rule establish requirements for securities posted pursuant to this subsection (b). These rules may also prescribe the various types and classes of securities that the commissioner of commerce and insurance will accept under this subsection (b);

(B) (i) Evidence of the employer's financial ability to pay all claims that may arise against the employer in the form of an annual certified financial statement, including a statement of assets and liabilities and a statement of profit and loss, to be filed no later than the last day of the sixth month after the end of the employer's immediately preceding fiscal year;

(ii) The financial statement is to include a detailed accounting for reserves for losses outstanding incurred in connection with workers' compensation self-insurance. The employer's losses and adequacy of reserves shall be certified annually by an actuary qualified under rules established by the commissioner of commerce and insurance for the filing of statements by insurance companies.

(3) Filings pursuant to this subsection (b) shall be kept confidential by the commissioner of commerce and insurance and shall not be construed to be a public record pursuant to title 10, chapter 7.

(4) The commissioner of commerce and insurance may assess a civil penalty of one hundred dollars ($100) per day for each day any self-insured employer has failed to comply with any financial record filing requirement. The civil penalty assessed under this subdivision (b)(4) shall be cumulative and in addition to any other civil penalty or remedy available to the commissioner. No civil penalty shall be assessed against any political subdivision of the state.

(5) The commissioner of commerce and insurance shall take into account all available information when making the determination as to both the adequacy of all security deposits, letters of credit, negotiable securities or bonds held by the commissioner and whether an employer has the ability to pay all claims that may arise.

(6) No employer shall self-insure its workers' compensation liabilities without a certificate of authority issued by the commissioner of commerce and insurance. It shall be unlawful for any employer to self-insure its liabilities for workers' compensation without first obtaining a duly issued certificate of authority from the commissioner of commerce and insurance. Whenever an employer has complied with subdivisions (a)(2) and (b)(2)(A) and (B), the commissioner of commerce and insurance, or the commissioner's designee, may issue to the employer a certificate of authority allowing the employer to self-insure under this section. Notice of this authorization shall be sent to the administrator of the division of workers' compensation.

(7) Upon failure by an authorized self-insured employer to furnish the commissioner of commerce and insurance the requirements delineated in subdivisions (a)(2) and (b)(2)(A) and (B), the commissioner may, after giving written notice and an opportunity for a hearing to the affected party or parties within thirty (30) days,

suspend or revoke the certificate authorizing the employer to self-insure granted under this section. The commissioner may, without prior notice and if it appears in the commissioner's discretion that the continuation of the certificate would be clearly hazardous to the employees of the self-insurer or to the public generally, summarily suspend an authorized self-insurer's certificate before a hearing is commenced and in that event shall immediately notify the self-insurer, and the notice shall include a statement to the effect that the commissioner's action is subject to review. All hearings conducted under this section shall comply with the contested case provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(8) Any hearing under this section shall be requested in writing by the self-insured employer within fifteen (15) days of receiving written notification from the commissioner of commerce and insurance or the commissioner's designee. In any proceeding in which the self-insured employer's certificate of authority is suspended or revoked, the self-insured employer shall pay all costs associated with the proceeding. The commissioner may serve a notice, order, petition or complaint in any action arising under this section by certified mail to the self-insured employer at the address of record in the files of the department. Notwithstanding any law to the contrary, service in the manner set forth in this subdivision (b)(8), shall be deemed to constitute actual service on the self-insured employer.

(9) The commissioner of commerce and insurance or the commissioner's designee shall immediately notify the administrator of the division of workers' compensation of any decision to suspend or revoke a certificate authorizing an employer to self-insure.

(10) The commissioner of commerce and insurance or the commissioner's designee has the authority to examine and investigate any self-insured employer whenever the commissioner deems it prudent to do so. The purposes and scope of the examinations and the commissioner's powers shall be set forth in title 56, chapter 1, part 4, pertaining to examinations of insurance companies.

(11) The commissioner of commerce and insurance may promulgate rules and regulations, including emergency rules and regulations, necessary for the administration of this section and shall conduct all rulemaking in accordance with the Uniform Administrative Procedures Act.

(c) (1) With the permission of a trade or professional association board of directors, ten (10) or more employers of the same group may enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insurers. The trade or professional association shall have been in active existence in Tennessee for at least five (5) years and the association shall:

(A) Have a constitution or bylaws;

(B) Have members that support the association by regular payment of dues on an annual, semiannual, quarterly or monthly basis; and

(C) Be created in good faith for purposes other than that of creating workers' compensation self-insurer pools. The commissioner of commerce and insurance has the authority to promulgate rules and regulations deemed necessary to provide for the solvency, administration and enforcement of

the pooling agreements. To the extent deemed necessary by the commissioner of commerce and insurance, each employer member of the approved group shall be classified as a self-insurer as otherwise provided in this chapter.

(2) Notwithstanding any other law or rule to the contrary, funds not needed for current obligations may be invested by the board of trustees in Tennessee securities as defined in § 56-4-210(a). The board of trustees of each workers' compensation pool shall adopt an investment policy. The policy shall address credit, quality of investments, maximum maturity of investments and other matters the board deems appropriate. Real estate investments must be undertaken with the approval of the commissioner of commerce and insurance.

(3) (A) Each group of employers qualifying as self-insurers pursuant to this subsection (c) shall submit to the commissioner of commerce and insurance a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the group's fiscal year. A thirty-day extension of the financial statement filing requirement shall be granted by the commissioner upon receipt of a request, via certified mail, by a group. The request shall be submitted to the commissioner not less than thirty (30) days prior to the date the financial statement is due to be filed.

(B) Notwithstanding subdivision (c)(3)(A), a qualified self-insured trust that has entered into a self-insurance loss portfolio transfer agreement approved by the commissioner of commerce and insurance with an insurer licensed in this state pursuant to which all of the liabilities and obligations pooled by the group of employers of the self-insured trust for their workers' compensation and employers' liability losses, including all existing and incurred but not reported claims, is not required to annually submit a statement of financial condition audited by an independent certified public accountant; provided, that the commissioner of commerce and insurance has granted a request filed by the self-insured trust for exemption from the annual submission of an audited statement of financial condition.

(4) (A) At the request of a group of employers qualifying as self-insurers pursuant to this subsection (c), the commissioner of commerce and insurance, in the commissioner's sole discretion, may grant additional thirty-day extensions to the financial statement filing requirements for acts of God, public enemies, fire, flood, storms or similar events constituting force majeure that cause the group to require more time to meet the filing requirements.

(B) The commissioner of commerce and insurance, after notice and an opportunity for a hearing, may revoke the certificate of approval of a group of employers qualifying as self-insurers pursuant to this subsection (c) if the group fails to comply with this subsection (c) or any rules promulgated under this subsection (c). In addition to or in lieu of revoking a certificate of approval, the commissioner may assess a civil penalty of one hundred dollars ($100) per day for failure to timely meet the filing requirements set forth in this subsection (c). All hearings under this subsection (c) shall be conducted pursuant to the Uniform Administrative Procedures Act.

(C) Financial statements filed pursuant to this subsection (c), individual member financial statements, work papers, notes, internal documents generated by the department of commerce and insurance or any other information obtained by or disclosed to the commissioner of commerce and insurance pursuant to this chapter or any regulations promulgated under this chapter, shall be confidential and shall not be disclosed to the public. This provision, however, shall not apply to the examination report prepared by the commissioner of commerce and insurance, nor to any rebuttal to the examination reports submitted by or on behalf of the group examined. However, nothing contained in this subdivision (c)(4)(C) shall be construed as prohibiting the commissioner of commerce and insurance from disclosing the information listed in this subdivision (c)(4)(C), or any matters relating to that information, to state agencies of this or any other state, or to law enforcement officials of this or any other state or agency of the federal government at any time.

(D) Upon receipt of a request from any approved authorized agent of a group of employers qualifying as self-insurers pursuant to this subsection (c), the group shall provide a copy of the annual statement of financial condition. The agent, however, shall not further disseminate the information except for purposes of obtaining errors and omission insurance or in the exercise of due diligence of the agent on behalf of the agent's client seeking admission to the group. Further, any individual or entity obtaining a copy of the statement shall hold the information confidential and shall not share or disclose the information to any other individual or entity.

(5) All groups pooling their liabilities pursuant to this subsection (c) shall pay premium tax and surcharges at the rates set forth in § 56-4-206. Each group's premium tax and surcharge payments shall be due on or before the last day of the sixth month following the end of the group's fiscal year. Any group failing to timely pay the taxes and surcharges shall be subject to the penalties and sanctions set forth in § 56-4-216.

(6) The sponsoring trade association may determine whether or not the pool shall remain in existence, subject to the approval of the commissioner.

(7) The pool shall provide to the sponsoring trade association all information requested by the association, other than a member's financial information.

(8) The sponsoring association shall not be liable or responsible for any act or omission of the pool.

(9) The commissioner of commerce and insurance has the authority to promulgate rules and regulations that would provide for civil penalties for violations of this subsection (c) or rules promulgated under this subsection (c).

(d) (1) It is an offense for any employer whose employee is entitled to the benefits of this chapter:

(A) To require such employee to pay any portion of the insurance premium paid by the employer; or

(B) To deduct any portion of such premium from the wages or salary of such employee.

(2) A violation of subdivision (d)(1) is a Class C misdemeanor.

(3) (A) In addition to any criminal penalty assessed for a violation of subdivision (d)(1), the administrator of the division of workers' compensation is authorized to impose a civil penalty of up to an amount equal to the amount of premiums deducted from such employee's wages or salary.

(B) If a civil penalty is assessed pursuant to subdivision (d)(3)(A), the administrator of the division of workers' compensation shall assess the penalty in a specific dollar amount to be paid directly to the employee.

(e) If at any time the commissioner of commerce and insurance deems the security or bond inadequate or unsafe, the commissioner shall require adequate bond or security.

(f) The commissioner of commerce and insurance may require the employer to secure excess catastrophe reinsurance coverage.

(g) This part shall not apply to policies of insurance against loss from explosions of boilers or flywheels or other similar single catastrophe hazards.

(h) The commissioner of commerce and insurance may issue rules, regulations and orders necessary to properly administer the deposits, bonds and financial evidence as required in this part.

(i) It is the duty of the commissioner of commerce and insurance and the administrator of the division of workers' compensation to interchange information as to matters of mutual interest under this chapter.

§ 50-6-406. Evidence of compliance; crimes and offenses

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Every employer, or the employer's insurance carrier unless the employer is self-insured, subject to this chapter, shall file evidence of its compliance with § 50-6-405 with the division of workers' compensation on a form prescribed by the administrator, within thirty (30) days after procurement or renewal of suitable workers' compensation insurance or qualification as a self-insurer.

(b) If an employer fails to comply with § 50-6-405, then during the continuance of the failure, the employer shall be liable to an injured employee either for compensation as provided in this chapter to be recovered in an action brought in a court of competent jurisdiction for that purpose, or for damages to be recovered as if this chapter had not been enacted, as the employee may elect; and in the case suit for damages is brought instead of a suit to recover compensation under this chapter, the employer, when sued, shall not be allowed to set up as a defense to the action that the employee was negligent, or that the injury was caused by negligence of a fellow servant or fellow employee, or that the employee had assumed the risk of the injury.

(c) Claim of compensation made under this chapter shall be deemed a waiver of the right to sue for damages, and the institution and prosecution to final judgment of a suit for damages shall be deemed a waiver of a right to claim compensation under this chapter.

§ 50-6-407. Notice

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

Every individual, firm, association, or corporation using the services of one (1) or more persons for pay shall post and maintain in a conspicuous place on the business premises a printed notice regarding workers' compensation as prescribed by the administrator of the division of workers' compensation. The notice shall include, at a minimum, a general description of the duties and obligations of both the employer and the employee under the law; the name, address and telephone number of the individual to notify in the event of a work-related injury; a toll-free number and address for the department of labor and workforce development at which employers or employees may obtain additional information; and the name, address and telephone number of a representative of the employer who can confirm whether the individual, firm, association, or corporation is subject to this chapter; and other information required through rules promulgated by the administrator of the division of workers' compensation.

§ 50-6-408. Policies; mandatory clauses

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

All policies insuring the payment of compensation under this chapter, including all contracts of mutual, reciprocal, or interinsurance, must contain a clause to the effect that:

(1) As between the employer and the insurer or insurers, the notice of or knowledge of the occurrence of the injury on the part of the insured employer shall be deemed notice or knowledge, as the case may be, on the part of the insurer or insurers;

(2) Jurisdiction of the insured for the purpose of this chapter shall be jurisdiction of the insurer or insurers; and

(3) The insurer or insurers shall in all things be bound by and subject to the awards, orders, judgments or decrees rendered against the insured employer, whether a formal party to the proceedings or not.

§ 50-6-409. Prompt payment of benefits

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) No policy of insurance against liability arising under this chapter, shall be issued unless it contains an express agreement of the insurer that it will promptly pay to the person entitled to them all benefits conferred by this chapter and all installments of the compensation that may be awarded or agreed upon, and that this obligation shall not be affected by any default of the insured for the injury or by any default in the giving of any notice required by the policy or otherwise.

(b) The agreement shall be construed to be a direct promise by the insurer to the person entitled to compensation under this chapter, and may be enforced directly by that

person in that person's name, and the failure, if any, of the insured to comply with any provisions of the policy regarding notice of injury, and such matters shall not be a defense in a suit on the policy by the insured employee or the insured employee's dependents or representatives, unless it can be shown that the insured employee or the insured employee's representatives or dependents aided and abetted in seeking to mislead or defraud the insurer.

§ 50-6-410. Crimes and offenses; grand jury

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The grand jury of every county in the state is given inquisitorial power over all violations of § 50-6-405 relating to employers insuring their compensation liability under this chapter, and is required to inquire into all such violations and to present them to the court by indictment or presentment.

§ 50-6-411. Construction service provider; misclassification of employees

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) It is a violation of this section if at any time a construction services provider, as defined in § 50-6-901, misclassifies employees to avoid proper classification for premium calculations by concealing any information pertinent to the computation and application of an experience rating modification factor or by materially understating or concealing:

(A) The amount of the construction services provider's payroll;

(B) The number of the construction services provider's employees; or

(C) Any of the construction services provider's employee's duties.

(2) A construction services provider who violates subdivision (a)(1) shall be subject to a penalty issued by the administrator or administrator's designee of up to the greater of one thousand dollars ($1,000) or one and one half (1 ½) times the average yearly workers' compensation premium for such construction services provider based on the appropriate assigned risk plan advisory prospective loss cost and multiplier minus the premium dollars paid on the policy that was the object of the understatement or concealment.

(b) This section shall have no effect upon a construction services provider's or carrier's duty to provide benefits under this chapter or upon any of the construction services provider's or carrier's rights and defenses under this chapter, including, but not limited to, § 50-6-108.

(c) In addition to the penalties provided for in subdivision (a)(2), the department shall refer cases involving business operations that are in violation of this section to the Tennessee bureau of investigation or the appropriate district attorney general for any action deemed necessary under any applicable criminal law.

(d) An individual or entity that is not a successor-in-interest or a principal of a construction services provider who is in violation of this section shall not be liable for the monetary penalties in this section.

(e) The funds collected by the administrator or the administrator's designee for penalties assessed pursuant to subdivision (a)(2) shall be deposited in the employee misclassification education and enforcement fund established by § 50-6-913 to be administered by the administrator.

§ 50-6-412. Fines and penalties

Effective: May 13, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) The administrator of the division of workers' compensation or the administrator's designee has the authority to issue a subpoena to require an employer doing business in the state to produce any and all books, documents or other tangible things that may be relevant to or reasonably calculated to lead to the discovery of relevant information necessary to determine whether an employer is subject to this chapter, or has secured payment of compensation pursuant to this chapter, and to determine the amount of any monetary penalty that is required to be assessed against an employer for failure to secure payment of compensation pursuant to this chapter.

(b) (1) All monetary penalties assessed pursuant to this section that are based on the average yearly workers' compensation premium shall be calculated by utilizing the appropriate assigned risk plan advisory prospective loss cost and multiplier for the employer as of the date of determination that the employer is subject to this chapter, and has not secured payment of compensation pursuant to this chapter.

(2) If the administrator or administrator's designee determines the period of noncompliance with this chapter, is less than one (1) year, any assessed monetary penalty shall be prorated; however, the monetary penalty shall not be less than an amount equal to one (1) month's premium of the average yearly workers' compensation premium for the employer based on the appropriate assigned risk plan advisory prospective loss cost and multiplier.

(3) If any monetary penalty assessed against an employer is held in abeyance pursuant to this section, the period of abeyance shall be two (2) years. Any abated penalty becomes void upon the expiration of the two-year period; provided, that the employer remained subject to this chapter, during the two-year period and continuously secured payment of compensation as required by law. Any abated penalty becomes voidable, if within the two-year period, the employer provides notice to the administrator that the employer is no longer subject to this chapter and upon concurrence of the administrator that the employer is no longer subject to this chapter, the penalty shall become void. Any abated penalty shall become due and payable immediately if, within the two-year period, the employer continues to be subject to this chapter and fails to secure payment of compensation as required by law.

(4) The administrator shall advise an employer of the amount of any assessed monetary penalty in writing and shall include the date on which the monetary penalty shall be due and payable.

(c) (1) When the records of the division of workers' compensation indicate, or when the division's investigation of an employer indicates, that an employer is subject to this chapter, and has failed to secure payment of compensation as required by this chapter, the division shall so notify the employer by certified letter, return receipt requested.

(2) The division shall require the employer to provide, within fifteen (15) calendar days of the receipt of the certified letter, either proof that the employer had secured payment of compensation as required by this chapter or a verifiable sworn affidavit, with supporting documentation, that the employer is exempt from this chapter.

(3) The certified letter shall also advise the employer of the monetary penalties that may be assessed against the employer if it is determined by the administrator or the administrator's designee that the employer has failed to secure payment of compensation as required by this chapter and shall advise the employer of the criminal penalties to which the employer may be subject for the failure.

(d) (1) If the employer responds to the certified letter within fifteen (15) calendar days of its receipt and the administrator or the administrator's designee determines that the employer has secured payment of compensation as required by this chapter, or that the employer is not subject to this chapter, no monetary penalty shall be assessed.

(2) If the employer responds to the certified letter within fifteen (15) calendar days of its receipt and the administrator or the administrator's designee determines that the employer is subject to this chapter and that the employer has secured the payment of compensation since the date of receipt of the certified letter, the administrator or the administrator's designee shall issue a decision assessing a monetary penalty to the employer equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium.

(e) (1) If the employer fails to respond to the certified letter within fifteen (15) calendar days of its receipt or the employer responds to the certified letter but does not provide a verifiable sworn affidavit of exemption, the administrator or the administrator's designee shall issue a decision assessing two (2) penalties. The administrator or administrator's designee shall send the decision to the employer by certified mail, return receipt requested, to the employer's last known address, according to the division's records.

(A) The first monetary penalty shall be equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one half (1 ½) times the average yearly workers' compensation premium.

(B) The second monetary penalty shall be equal to the average yearly workers' compensation premium for such employer.

(2) The administrator's or administrator's designee's decision shall notify the employer of all monetary penalties that have been assessed against the employer and the criminal penalties to which the employer may be subject.

(3) The administrator's or administrator's designee's decision shall advise the employer that it may request a contested case hearing to show cause why it should not have been assessed penalties for failure to comply with the workers' compensation law or to challenge the amount of the penalties assessed. Such a request must be made to the division in writing within fifteen (15) calendar days of receipt of the administrator's or administrator's designee's decision assessing monetary penalties. If such request is not timely made, the decision becomes final.

(4) The employer has the burden of proof at the contested case hearing and shall produce documentary evidence that the penalties should be reduced, that the employer is not subject to this chapter, or that the employer was in compliance with this chapter.

(5) The contested case hearing shall be scheduled to be heard in a timely manner, not to exceed forty-five (45) calendar days from the date of the employer's timely written request for a contested case hearing pursuant to subdivision (e)(3).

(f) (1) If the administrator or the administrator's designee determines at the contested case hearing that the employer is not subject to this chapter, or that the employer had secured and continues to secure payment of compensation as required by this chapter, all monetary penalties shall be void.

(2) If the administrator or the administrator's designee determines at the contested case hearing that the employer is subject to this chapter and that the employer has come into compliance with this chapter by securing payment of compensation prior to the date of the contested case hearing, the first monetary penalty equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium shall be due; however, the second monetary penalty equal to the average yearly workers' compensation premium shall be held in abeyance.

(3) If the administrator or the administrator's designee determines at the contested case hearing that the employer is subject to this chapter and that the employer has failed to secure payment of compensation as required by this chapter, the employer shall be ordered to procure workers' compensation insurance coverage and to provide the division with proof of coverage within five (5) days of the issuance of the order, excluding Saturdays, Sundays and holidays. If the employer obtains workers' compensation insurance coverage and provides the division with proof of coverage as ordered, the first monetary penalty equal to one and one-half (1 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of one thousand dollars ($1,000) or one and one-half (1 ½) times the average yearly workers' compensation premium shall be due;

however, the second monetary penalty equal to the average yearly workers' compensation premium shall be held in abeyance.

(4) If the employer fails to obtain workers' compensation insurance coverage as ordered by the administrator or administrator's designee within the required time period, all monetary penalties, totaling two and one-half (2 ½) times the average yearly workers' compensation premium, or if the employer is engaged in the construction industry, as defined in § 50-6-901, the greater of two thousand dollars ($2,000) or two and one-half (2 ½) times the average yearly workers' compensation premium, shall be immediately due and payable.

(g) The administrator shall notify the secretary of state:

(1) When any employer engaged in the construction industry, as defined in § 50-6-901, fails to secure payment of compensation, as required by this chapter; and

(2) When any employer engaged in the construction industry, as defined in § 50-6-901, who has failed to secure payment of compensation, as required by this chapter, has secured payment of such compensation.

(h) (1) In the event an employer engaged in the construction industry, as defined in § 50-6-901, fails to comply with the requirements of this chapter, by failing to secure payment two (2) or more times within a five-year period, then the administrator shall issue a monetary penalty against the employer that is the greater of three thousand dollars ($3,000) or three (3) times the average yearly workers' compensation premium for each second or subsequent violation.

(2) (A) In the event an employer engaged in the construction industry, as defined in § 50-6-901, fails to comply with the requirements of this chapter, by failing to secure payment two (2) or more times within a five-year period, such employer shall be permanently prohibited from obtaining an exemption pursuant to part 9 of this chapter and the administrator shall notify the secretary of state of such prohibition.

(B) For purposes of subdivision (h)(2)(A), "such employer" includes any construction services provider, as defined by § 50-6-901, who applies for or has ever received a workers' compensation exemption pursuant to part 9 of this chapter using the same federal employer identification number as the employer who fails to comply with the requirements of this chapter.

(i) (1) The administrator has the authority to seek an injunction in the chancery court of Davidson County to prohibit an employer from operating its business in any way until the employer has complied with an order by the administrator or the administrator's designee to obtain workers' compensation insurance coverage.

(2) In the event an employer fails to comply with the requirements of this chapter, by failing to secure payment of compensation on a second or subsequent occasion, the administrator shall have the authority to seek an injunction in the chancery court of Davidson County to prohibit the employer from operating its business in any way until the employer provides proof that it has complied with this chapter by securing payment of compensation.

(j) The employer shall have the right to appeal, pursuant to the Uniform Administrative Procedures Act, compiled at title 4, chapter 5, any decision made by or order issued by the administrator or the administrator's designee pursuant to this section.

§ 50-6-413. In-state claims office or claims adjuster

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Every workers' compensation insurer that provides insurance for Tennessee workers' compensation claims, and every workers' compensation division-approved self-insured employer, shall be required to maintain a workers' compensation claims office or to contract with a claims adjuster located within the borders of the state. The claims office or adjuster has authority to commence temporary total disability benefits and medical benefits if so ordered by the claims coordinator or by a court at a show cause hearing.

§ 50-6-414. Experience modification factor information

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Any employer who is assigned an experience modification factor for the purpose of determining its workers' compensation premium shall be sent annually, at no charge to the employer, a copy of any information relative to its experience modification factor that is available to an insurance company.

(b) If the experience modification factor notification is not received by the employer prior to the policy renewal date, or the policy anniversary date if different, the experience modification factor shall not be used for premium purposes if its use results in a higher premium for the employer. The mailing of the experience modification factor worksheet shall be sufficient proof of notice, provided the mailing is by certified mail, return receipt requested.

§ 50-6-415. Administrator; authority to obtain information; rules; analysis and report of information

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) The administrator of the division of workers' compensation has the same authority as the commissioner of commerce and insurance to request and obtain relevant information on workers' compensation claims. All workers' compensation insurers or their designated agents, self insurers and the department of commerce and insurance shall report claims information and other relevant workers' compensation data necessary to determine and analyze costs of the system to the administrator of the division of workers' compensation or to the agents as the administrator may designate. The administrator may promulgate all reasonable rules and regulations necessary to implement this section in

accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) In promulgating rules concerning data collection, the administrator of the division of workers' compensation shall include appropriate elements of the Detailed Claim Information Reporting Model Regulation for Workers' Compensation Insurance issued by the National Association of Insurance Commissioners, and other information the administrator deems necessary. The administrator shall also consult with the advisory council on workers' compensation in defining the information needed to permit management of the system. The administrator shall also report to the commerce and labor committee of the senate and the consumer and human resources committee of the house of representatives at the request of the chairs of the committees.

(b) The division of workers' compensation shall gather, and has the duty to analyze and report, information relevant to the functioning of the workers' compensation system to the advisory council on workers' compensation, the general assembly and the governor. The division shall respond to information requests concerning workers' compensation issues from the advisory council on workers' compensation, the general assembly and the governor.

(c) The administrator of the workers' compensation division shall enforce requests pursuant to this section in the same manner and with the same authority as the commissioner of commerce and insurance possesses with respect to violations of this part and title 56. The administrator shall also notify the principal corporate office of any insurer of any refusal to comply with such requests. The administrator's enforcement authority under this subsection (c) applies only to the administrator's efforts to obtain relevant data as provided in subsections (a) and (b).

§ 50-6-417. Experience modification factor disputes; review; appeal

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

In cases where an employer disputes an experience modification factor assigned to the employer, the insurer shall notify the employer of the employer's right to submit a request for review and to appeal to the commissioner of commerce and insurance pursuant to § 56-5-309(b).

§ 50-6-418. Rating plans; premium credits schedule

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) (1) The department of commerce and insurance shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers that implement a drug-free workplace program pursuant to rules adopted by the division of workers' compensation of the department of labor and workforce development. The plans must take effect January 1, 1997, must be actuarially sound, and must state the savings anticipated to result from the drug testing. The credit shall be at least five percent

(5%) unless the commissioner of commerce and insurance determines that five percent (5%) is actuarially unsound.

(2) The commissioner is also authorized to develop a schedule of premium credits for workers' compensation insurance for employers who have safety programs that attain certain criteria for safety programs. The commissioner shall consult with the administrator of the division of workers' compensation in setting the criteria.

(b) The department of commerce and insurance shall apply the drug-free workplace program credit separately to each individual company for an employer having more than one (1) company under one (1) workers' compensation insurance policy. However, no credit given to an individual company may be combined with any credit given to any other company of the common employer or to the common employer itself.

§ 50-6-419. Adjustment and settlement standards

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Notwithstanding any other provision of this part or of title 56 to the contrary, in order to assure that injured employees are treated fairly and to assure that claims are handled in an appropriate and uniform manner, the administrator of the division of workers' compensation shall set standards by rule governing the adjustment and settlement of workers' compensation claims by insurance carriers and self-insured employers. The standards may include, but are not limited to, standards governing contact with an employee after notice of injury has been given, the processing of claims and procedures for making an offer of settlement.

(b) The administrator shall promulgate rules and regulations to effectuate the purposes of this section. The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) The administrator of the division of workers' compensation shall enforce standards adopted pursuant to this section in the same manner and with the same authority as the commissioner of commerce and insurance possesses with respect to violations of this part and title 56. The administrator shall also notify the principal corporate office of any insurer of any violations of the standards.

§ 50-6-420. Legislative intent

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

It is the intent of the general assembly that upon the filing of a claim pursuant to this chapter, the insurer is encouraged to provide semi-annual reports to the employer, at no cost to the employer, regarding the status of the claim.

§ 50-6-421. Information regarding employer workers' compensation insurance policies; compliance with law

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) The administrator of the division of workers' compensation may request and obtain information regarding employer workers' compensation insurance policies in order to ensure compliance with the law. Except as otherwise provided in subsection (b), any information relating to workers' compensation insurance policies obtained by the administrator pursuant to this subsection (a) shall be deemed confidential and shall not constitute a public record, as defined in § 10-7-503; provided, such information may be used by any state agency, or vendor designated by the state, for the purpose of ensuring compliance with the law.

(b) The following information obtained by the administrator pursuant to subsection (a) shall constitute a public record, as defined in § 10-7-503, and shall be open for personal inspection by any citizen of this state:

(1) Employer name and business address;

(2) Workers' compensation insurance carrier name and business address; and

(3) Workers' compensation insurance policy number, policy effective date and policy expiration date.

§ 50-6-501. Safety committees; experience modification factors

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) In order to promote health and safety in places of employment in this state, every public or private employer that is subject to this chapter, shall establish and administer a safety committee in accordance with rules adopted pursuant to § 50-6-502, if the administrator of the workers' compensation division finds that the employer has an experience modification factor or rate applied to the premium greater than or equal to one and twenty hundredths (1.20).

(b) In making determinations under subsection (a), the administrator of the workers' compensation division shall utilize the most recent statistics regarding experience modification rates.

(c) (1) Every insurance company authorized to write workers' compensation insurance shall submit its modification factors or rates for each of its workers' compensation insureds to the commissioner of commerce and insurance, when requested by the commissioner. On request from the administrator of the workers' compensation division, the commissioner of commerce and insurance shall provide the division of workers' compensation with the information.

(2) The administrator of the workers' compensation division shall establish safety committee requirements for self-insured employers pursuant to rules promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(3) The commissioner of commerce and insurance may assess a civil penalty of up to two thousand dollars ($2,000) per incident for failure to comply with subdivision (c)(1).

§ 50-6-502. Safety committees; membership; powers and duties

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) In carrying out § 50-6-501, the administrator of the workers' compensation division shall promulgate rules that include, but are not limited to, provisions:

(1) Prescribing the membership of the committees to ensure equal numbers of hourly employees and employer representatives as well as specifying the frequency of meetings;

(2) Requiring employers to make adequate written records of each meeting and to maintain the records subject to inspection by Tennessee occupational safety and health administration representatives; and

(3) Requiring employers to compensate employee representatives on safety committees at the regular hourly wage while the employees are engaged in safety committee training or are attending safety committee meetings.

(b) The duties and functions of the safety committee shall include, but are not limited to:

(1) Assisting in establishing procedures for workplace safety inspections by the committee;

(2) Assisting in establishing procedures for investigating all safety incidents, accidents, illnesses and deaths; and

(3) Assisting in evaluating accident and illness prevention programs.

(c) The employer shall provide training for safety committee members in their duties and responsibilities provided in subsection (b).

(d) An employer operating under a collective bargaining agreement that contains provisions regulating the formation and operation of a safety committee that meets or exceeds the minimum requirements of this section and § 50-6-501 may apply to the administrator of the workers' compensation division for a determination that the employer meets the requirements of this section and § 50-6-501.

§ 50-6-505. Liability of labor organizations

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

When an employee incurs an injury compensable under this chapter, the discussion or furnishing, or failure to discuss or furnish, or failure to enforce any safety or health provision, shall not subject a labor organization representing the injured employee to any civil liability for the injury.

§ 50-6-601. Short title; establishment; assessments

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) This part shall be known and may be cited as the "Workers' Compensation Insurance Fund Act of 1992."

(b) (1) There shall be established a competitive state workers' compensation insurance fund to insure employers under this chapter.

(2) This fund shall operate as a nonprofit insurance company and is subject to all requirements of law and regulation as any other insurer offering workers' compensation insurance in Tennessee pursuant to title 56 and this chapter.

(3) This fund shall act in addition to, and not as a substitute for, an assigned risk pool.

(4) The fund shall be required to maintain an adequate rate and any assessment for accumulated liabilities shall be made only against those insured within the state workers' compensation insurance fund. No assessments shall be made against or for the Tennessee Guaranty Association, as described in title 56, chapter 12, and no assessment shall be made against a private insurer or any entity authorized under § 50-6-405(c), not participating in the state workers' compensation insurance fund. The policies written by the fund shall be assessable against the policyholders.

§ 50-6-602. Definitions

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

As used in this part, unless the context otherwise requires:

(1) "Board" means the board of directors of the competitive state compensation insurance fund;

(2) "Fund" means the competitive state compensation insurance fund; and

(3) "Personal injury" or "injury" has the meaning given to it in § 50-6-102.

§ 50-6-603. Nonprofit independent public corporation; domestic insurance company

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The fund shall be created as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under this part. The fund shall be organized as a domestic insurance company.

§ 50-6-604. Board of directors; termination; appointment of new board; members

Effective: July 10, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) In the event the commissioner of commerce and insurance elects to make the fund operational pursuant to § 56-5-314, the existing board of directors shall terminate and a new board shall be appointed within sixty (60) days of the election.

(b) The board of directors shall initially consist of seven (7) members who are knowledgeable concerning the workers' compensation system. The state treasurer shall be an ex officio member. Initially, the speakers of the senate and the house of representatives and the governor shall each appoint one (1) member for a two-year term and one (1) member for a three-year term. Each director shall hold office until a successor is appointed and qualifies. The board shall annually elect a chair from among its members and other officers it deems necessary for the performance of its duties.

(c) (1) Once the fund is operational and the commissioner of commerce and insurance certifies it as a fund able to effectively operate under this part and title 56, then on the next scheduled expiration of board members' terms:

(A) The members shall be elected by policyholders; and

(B) The state treasurer shall, on expiration of the treasurer's term, cease to be a member of the board.

(2) The successor board shall consist of seven (7) members selected by policyholders for three-year terms.

§ 50-6-605. Management and control

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The management and control of the fund is vested solely in the board.

§ 50-6-606. Powers and duties of board

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) The board is vested with full power, authority, and jurisdiction over the fund.

(2) The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by it under this part, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this part.

(b) The board may invest assets as permitted by § 56-3-402.

§ 50-6-608. Privileges and immunities

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The members of the board and officers or employees of the fund shall not be liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.

§ 50-6-609. Insurance against claim arising primarily out of employment

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

The fund shall insure an employer against any workers' compensation claim arising primarily out of and in the course and scope of employment as fully as any other insurer.

§ 50-6-610. Powers and duties of fund

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

For purposes of exercising the specific powers granted in this part and carrying out the other purposes of this part, the fund may:

(1) Sue and be sued;

(2) Have a seal and alter it at will;

(3) Make, amend, and repeal rules relating to the conduct of the business of the fund;

(4) Enter into contracts relating to the administration of the fund;

(5) Rent, lease, buy, or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;

(6) Declare a dividend when there is an excess of assets over liabilities, and minimum surplus requirements;

(7) Pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries, and pay administrative and other expenses;

(8) Hire personnel and set salaries and compensation; and

(9) Perform all other functions and exercise all other powers of a domestic insurance company that are necessary, appropriate, or convenient to administer the fund.

§ 50-6-615. Property of fund

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon money belonging to the fund and deposited or invested by the fund are the sole

property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not state property. The employees of the fund shall not be considered state employees.

§ 50-6-616. Appropriations

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The fund shall not receive any state appropriation at any time other than as provided by § 50-6-621.

§ 50-6-617. State agencies

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The fund shall not be considered a state agency for any purpose.

§ 50-6-618. Insurance agents, solicitors or brokers

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Private independent insurance agents licensed to sell workers' compensation insurance in this state may sell insurance coverage for the fund according to rules adopted by the board. The board shall, by rule, also establish a schedule of commissions that the fund will pay for the services of an agent.

§ 50-6-619. Reports

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The board shall submit an annual report to the governor and general assembly indicating the business done by the fund the previous year and containing a statement of the resources and liabilities of the fund.

§ 50-6-620. Contents of reports

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The board shall annually report to the general assembly, governor, and the director of the division of state audit the operations of the fund up to that date. The report shall include, but not be limited to:

(1) The volume of premiums insured through the state fund and its share of the state workers' compensation insurance market;

(2) The percent division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the state fund;

(3) The average rate of return enjoyed by the state fund on its invested assets;

(4) Recommendations concerning desirable changes in the state fund to promote its prompt and efficient administration of policies and claims;

(5) A recommendation to the general assembly and governor regarding the continued operation of the fund;

(6) A full report concerning reserve practices including any actuarial analysis of the funds reserved; and

(7) Any other information the director deems appropriate.

§ 50-6-621. Bonds; start-up costs

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The state is authorized to issue bonds in accordance with law or appropriate funds in the general appropriations act to the competitive state compensation insurance fund for start-up costs to be repaid pursuant to terms set by authorizing legislation for issuance of the bonds or appropriated funds. The start-up costs may be utilized by the fund to meet the reserve and capitalization requirements of the department of commerce and insurance. The funds set aside for this purpose shall be considered an admitted asset for regulatory purposes. The time for the fund repaying the appropriations may be extended by the funding board.

§ 50-6-622. Commencement of operations

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The fund shall begin providing workers' compensation insurance coverage when the board determines that the fund is able to do so and all requirements under state law have been met. The fund shall not issue insurance policies to employers until the approval of the director of the division of state audit has been obtained.

§ 50-6-623. Organizational and operating plans; submission to review committee for approval

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

Before the fund established by this part shall enter into any contract, except for consulting services, or issue any bonds, or incur any liability, the board of directors shall submit organizational and operating plans for the fund to a review committee for approval. The review committee shall consist of the administrator of the workers' compensation division, the commissioners of commerce and insurance, and finance and administration, the state treasurer, and the comptroller of the treasury. The review committee shall approve the operational and organizational plans if it determines the plans to be in accord with this part and to be fiscally sound and responsible. If the committee approves the plan, then the fund may become fully operational. If the committee does not approve the plan, then the committee shall make appropriate recommendations to the board of directors, governor, and the speakers of the senate and house of representatives concerning any deficiencies.

§ 50-6-701. Definitions

Effective: August 5, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

As used in this part, unless the context otherwise requires:

(1) "Association captive insurance company" means an association captive insurance company described in § 56-13-102, operated by an association described in § 56-13-102;

(2) "Electric cooperative" means an electric cooperative or electric membership corporation, whether organized or operating under title 65, chapter 25, or similar statutes of any other state, that distributes electric power purchased from the Tennessee Valley authority (TVA);

(3) "Interlocal agreement" means an agreement authorized by title 12, chapter 9, or by this part, or by both; and

(4) "Municipal utility" means any governmental entity as defined in § 29-20-102, having a system for the distribution of electric power, whether operated under the authority of a board of the governmental entity, by a department of the governmental entity or under the authority of a board created pursuant to the Municipal Electric Plant Law of 1935, compiled in title 7, chapter 52, or by the authority of any other law of the state, and that operates an electric generation or distribution system that distributes electric power purchased from the Tennessee Valley authority; and also includes any municipality, county or other political subdivision of another state, whether operated under a board or as a county or municipal department, that distributes electric power purchased from the Tennessee Valley authority.

§ 50-6-702. Authorization to enter interlocal agreements

Effective: April 30, 2010

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) For the purpose of insuring or self-insuring the obligations and liabilities under this chapter, municipal utilities and electric cooperatives are authorized to enter into interlocal agreements to pool their liabilities pursuant to § 29-20-401, as if each electric cooperative were a governmental entity for purposes of § 29-20-401, and as if each cooperative were a public agency for purposes of title 12, chapter 9, and under which the interlocal agreement is administered by an association captive insurance company or any of its affiliates or subsidiaries. An interlocal arrangement that is administered by an association captive insurance company may also provide for the insuring or self-insuring of obligations and liabilities arising under the federal Longshoremen's and Harbor Workers' Compensation Act, compiled in 33 U.S.C. §§ 901-950, as long as the company has obtained any necessary approvals by the appropriate federal agencies.

(b) The general assembly finds and determines that participation in the interlocal agreements by electric cooperatives and municipal utilities provides a mutual benefit to help reduce the expense of operations of municipal utilities and electric cooperatives

and hence reduces the cost of electricity for the citizens of the state, and finds that all contributions of financial and administrative resources and associated costs and expenses made by a municipal utility pursuant to an interlocal agreement, as authorized in this part, are made for a public and governmental purpose, and that the contributions benefit the contributing municipal utilities. To the extent that the interlocal agreements provide for the respective parties to indemnify or hold harmless each other from certain liabilities arising out of participation in the pooling agreement, the provisions are authorized in accordance with the findings of the general assembly.

§ 50-6-703. Association captive insurance companies as administrators

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

An association captive insurance company may, directly or through an entity it may create and control, enter into agreements with participating governmental entities or electric cooperatives under § 29-20-401, to serve as administrator or act as the special fund or legal or administrative entity of the pooled financial and administrative resources thereunder and under this part, and may charge fees and costs for such services as administrator. The company may provide insurance or reinsurance for excess losses above the amounts that are retained by the pooled financial resources, the same as if it were created by governmental entities under § 29-20-401(e), for those purposes, an electric cooperative shall be deemed to be a governmental entity. To the extent that an association captive insurance company shall be deemed to become a party to an interlocal agreement, it shall be deemed to have the status of a public agency for those purposes. The administrative activities and operations of the fund or entity, whether by, through or under the direction or supervision of the association captive insurance company or otherwise, shall be subject to § 29-20-401(d), and certificates of compliance may be issued as authorized by § 29-20-401(c)(2).

§ 50-6-704. Liability; participation in other arrangements

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Nothing in this part shall be construed to confer upon any electric cooperative any immunity from liability for damages for injuries to persons or property granted to a governmental entity under the provisions of the Tennessee Governmental Tort Liability Act, compiled in title 29, chapter 20, nor to prevent a municipal utility from exercising any right, privilege or option it may have under this chapter.

(b) Nothing in this part shall preclude a municipal utility or electric cooperative from participating in any other insured, self-insured, or risk-pooling arrangement permitted under any other law of this state.

(c) Nothing in this part shall be deemed to be an implied repeal of any of the provisions of title 65, chapter 25.

§ 50-6-705. Construction

Effective: August 14, 2008

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

This part shall be liberally construed to permit electric cooperatives and municipal utilities to enter into agreements to pool their resources to provide for satisfaction of obligations under this chapter, as if electric cooperatives were governmental entities under § 29-20-401 or public agencies under title 12, chapter 9.

§ 50-6-801. Creation and use of fund

Effective: April 24, 2014

(a) There is created the uninsured employers fund as an account in the general fund, which shall be invested pursuant to § 9-4-603. Moneys from the fund may be expended to fund activities authorized by this part. Any revenues deposited in this fund shall remain in the fund until expended for purposes consistent with this part, and shall not revert to the general fund on any June 30. Any appropriation for the fund shall not revert to the general fund on any June 30, but shall remain available for expenditure in subsequent fiscal years.

(b) The uninsured employers fund may receive revenues that shall include all penalties assessed and collected from employers who fail to provide workers' compensation coverage or who fail to qualify as self-insurers pursuant to this chapter, and any other amounts that may be appropriated. In addition, when deemed necessary in the discretion of the administrator and when the balance remaining in the uninsured employers fund is less than the amount of funds distributed by the division to provide benefits to injured workers in the previous fiscal year, the administrator may also withdraw up to twenty-five percent (25%) of the balance of funds remaining after the costs and expenditures provided by § 50-6-913(b) have been satisfied, from the employee misclassification education and enforcement fund to provide benefits under this part.

(c) The uninsured employers fund shall be used for payment of the costs incurred by the division of workers' compensation to administer the assessment of and collection of penalties provided in § 50-6-412.

(d) The division may use any revenues remaining in the uninsured employers fund that are not used for the purposes provided in subsection (c) to provide temporary disability and medical benefits to any eligible employee who suffered an injury arising primarily within the course and scope of the employee's employment with an employer who failed to secure the payment of compensation pursuant to this chapter at the time the eligible employee suffered the injury. An employee shall be an eligible employee within the meaning provided by this section if:

(1) The employee was employed by an employer who failed to secure payment of compensation pursuant to this chapter;

(2) The employee suffered an injury on or after July 1, 2015, primarily within the course and scope of employment, at a time when the employer had failed to secure the payment of compensation;

(3) The employee was a Tennessee resident on the date of injury;

(4) The employee provided notice to the division of the injury and of the failure of the employer to secure the payment of compensation within a reasonable period of time, but in no event more than sixty (60) days, after the date of the injury; and

(5) Except as provided in § 50-6-802(d) and (e), the employee secured a judgment for workers' compensation benefits against the employer for the injury.

§ 50-6-802. Temporary disability or medical benefits; request; payment; claim

Effective: April 24, 2014

(a) An eligible employee may request that the division provide the employee temporary disability or medical benefits, pursuant to § 50-6-801(d), by submitting a request for benefits from the uninsured employers fund to the division no more than sixty (60) days after conclusion of the claim, including all appeals. The request shall be made on a form prescribed by the division, and shall be submitted to the division via certified mail. The eligible employee shall include a copy of the judgment with the request. Any request for benefits that does not meet the requirements of this subsection (a) shall not be considered.

(b) For claims with a date of injury that is on or after July 1, 2015, the division may, upon receipt of a request for benefits pursuant to subsection (a) from an eligible employee, provide the employee workers' compensation benefits for temporary disability and medical benefits only. The division shall promulgate rules, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, setting forth the circumstances under which benefits may be paid pursuant to this part.

(c) If the division pays workers' compensation benefits to the injured employee, the workers' compensation benefits shall be paid to the employee from the uninsured employers fund and the amount paid to, or on behalf of, any injured employee, pursuant to this part, shall not exceed forty thousand dollars ($40,000). Of the forty thousand dollars ($40,000), no more than twenty thousand dollars ($20,000) shall be payable for medical benefits and no more than twenty thousand dollars ($20,000) shall be payable for temporary disability benefits. However, if less than twenty thousand dollars ($20,000) has been paid to the employee for temporary disability or medical benefits and the employee has secured a judgment for temporary disability or medical benefits in an amount greater than twenty thousand dollars ($20,000), the administrator may pay the remaining funds to the employee for temporary disability or medical benefits. The administrator shall not pay benefits pursuant to this part to, or on behalf of, any employee for more than one workplace injury.

(d) (1) In order to establish medical causation, the administrator shall have authority to provide medical benefits to an employee who meets the requirements of § 50-6-801(d)(1)-(4) for the payment of the cost associated with the employee's visit with a physician to perform an evaluation and provide an opinion on medical causation. The employer shall be required to reimburse the division for the payment of benefits pursuant to this section even when the employee's injury is determined not to be compensable under this chapter.

(2) When medical benefits have been provided pursuant to subdivision (d)(1), the amount of payment shall be deducted from the total amount of benefits that may

be provided under subsection (c) in the event that those benefits are provided. However, the provision of medical benefits pursuant to this subsection (d) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under this chapter.

(e) (1) If medical causation is established and a workers' compensation judge determines that an employee, who meets the requirements of § 50-6-801(d)(1)-(4), is entitled to temporary disability or medical benefits, following an expedited hearing as provided in § 50-6-239(d), the administrator has the discretion to begin paying temporary disability or medical benefits.

(2) If the administrator makes any payments of temporary disability or medical benefits pursuant to this subsection (e) and the employee fails to prosecute the claim, the division has authority to seek recovery of the payments from the employee.

(3) The provision of medical benefits pursuant to this subsection (e) shall not automatically entitle the employee to the benefits provided by subsection (c) even when the claim is determined to be compensable under this chapter.

(f) When an employee who has provided notice pursuant to § 50-6-801(d)(4) files a claim for workers' compensation benefits against the employer identified in the notice, the court of workers' compensation claims shall convene a full and final hearing no more than sixty (60) days after the notice of hearing has been filed pursuant to § 50-6-239(a).

§ 50-6-803. Satisfaction of judgment; assumption of right; lien

Effective: April 24, 2014

(a) The payment of workers' compensation benefits to, or on behalf of, an injured employee pursuant to this part constitutes satisfaction of the judgment against the uninsured employer up to the amount paid. The division shall assume the rights of a creditor against the employer and may take action to collect the portion of the judgment that it satisfied on the employer's behalf.

(b) The division shall place a lien on the assets of the employer to recover money paid pursuant to this part by filing a notice of claim with the register of deeds of any county where the employer has assets. Upon filing the notice of claim with the appropriate official, the division shall be a secured creditor, and any lien secured pursuant to this part has first priority over all other liens with the exception of liens established for the collection of delinquent tax payments.

(c) The injured employee may collect the remaining portion of the judgment that was not satisfied by payment made pursuant to this part from the employer.

§ 50-6-901. Definitions

Effective: October 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

For purposes of this part, unless the context otherwise requires:

(1) "Active and in good standing as reflected in the records of the secretary of state" means a corporation, limited liability company, or partnership that is in

existence, registered or authorized to transact business in this state as reflected in the records of the secretary of state; and in the case of a corporation, limited liability company, limited liability partnership, or limited partnership, such entity is in good standing with the Tennessee department of revenue;

(2) "Board" means the state board for licensing contractors;

(3) "Commercial construction project" means any construction project that is not:

(A) The construction, erection, remodeling, repair, improvement, alteration or demolition of one (1), two (2), three (3) or four (4) family unit residences not exceeding three (3) stories in height or accessory use structures in connection with the residences;

(B) The construction, erection, remodeling, repair, improvement, alteration or demolition of any building or structure for use and occupancy by the general public which, pursuant to § 62-6-112(f)(2), a small commercial building contractor is authorized to bid on and contract for; or

(C) Performed by any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, waste water services, telephone service, telecommunications service, cable service, or Internet service or any combination thereof, for sale to consumers in any particular service area;

(4) "Construction project" means the construction, erection, remodeling, repair, improvement, alteration or demolition of a building, structure or other undertaking; provided, that if a general contractor contracts to erect, remodel, repair, improve, alter or demolish multiple buildings, structures or undertakings in one (1) contract, all such buildings, structures or undertakings described in such contract shall constitute one (1) construction project;

(5) "Construction services provider" or "provider" means any person or entity engaged in the construction industry;

(6) "Corporate officer" or "officer of a corporation" means any person who fills an office provided for in the corporate charter or articles of incorporation of a corporation that in the case of a domestic corporation is formed under the laws of this state pursuant to title 48, chapters 11-68, or in the case of a foreign corporation is authorized to transact business in this state pursuant to title 48, chapters 11-68; provided, that a domestic or foreign corporation is active and in good standing as reflected in the records of the secretary of state;

(7) "Direct labor" means the performance of any activity that would be assigned to the contracting group as those classifications are designated by the rate service organization designated by the commissioner of commerce and insurance as provided in § 56-5-320, but does not include:

(A) Classification code 5604, or any subsequent classification code, for construction executives, supervisors, or foremen that are responsible only for the oversight of laborers; or

(B) Classification code 5606, or any subsequent classification code, for project managers, construction executives, construction managers and construction superintendents having only administrative or managerial

responsibilities for construction projects by exercising operational control indirectly through job supervisors or foremen;

(8) "Engaged in the construction industry" means any person or entity assigned to the contracting group as those classifications are designated by the rate service organization designated by the commissioner of commerce and insurance as provided in § 56-5-320; provided, that where more than one (1) classification applies, the governing classification, as that term is defined by the rate service organization designated by the commissioner of commerce and insurance as provided in § 56-5-320, shall be used to determine whether the person or entity is engaged in the construction industry;

(9) "Family-owned business" means a business entity in which members of the same family of the applicant have an aggregate of at least ninety-five percent (95%) ownership of such business;

(10) "General contractor" means the person or entity responsible to the owner or developer for the supervision or performance of substantially all of the work, labor, and the furnishing of materials in furtherance of the construction, erection, remodeling, repair, improvement, alteration or demolition of a building, structure or other undertaking and who contracts directly with the owner or developer of the building, structure or other undertaking; "general contractor" includes a prime contractor;

(11) "Good standing with the Tennessee department of revenue" means the secretary of state has received and verified through electronic confirmation or a certificate of tax clearance issued by the commissioner of revenue that a corporation, limited liability company, limited liability partnership, or limited partnership is current on all fees, taxes, and penalties to the satisfaction of the commissioner;

(12) "Member of a limited liability company" means any member of a limited liability company formed pursuant to title 48, chapters 201-249 that is active and in good standing as reflected in the records of the secretary of state;

(13) "Members of the same family of the applicant" means parents, children, siblings, grandparents, grandchildren, stepparents, stepchildren, stepsiblings, or spouses of such, and includes adoptive relationships;

(14) "Partner" means any person who is a member of an association that is formed by two (2) or more persons to carry on as co-owners of a business or other undertaking for profit and such association is active and in good standing as reflected in the records of the secretary of state;

(15) "Person" means only a natural person and does not include a business entity;

(16) "Registry" means the construction services provider workers' compensation exemption registry established pursuant to this part and maintained by the secretary of state; and

(17) "Sole proprietor" means one (1) person who owns a form of business in which that person owns all the assets of such business.

§ 50-6-902. Insurance requirement; exemptions; subcontractors

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) Except as provided in subsection (b), all construction services providers shall be required to carry workers' compensation insurance on themselves. The requirement set out in this subsection (a) shall apply whether or not the provider employs fewer than five (5) employees.

(b) To the extent there is no restriction on applying for an exemption pursuant to § 50-6-903, a construction services provider shall be exempt from subsection (a) if the provider:

(1) Is a construction services provider rendering services on a construction project that is not a commercial construction project and is listed on the registry;

(2) Is a construction services provider rendering services on a commercial construction project, is listed on the registry and such provider is rendering services to a person or entity that complies with § 50-6-914(b)(2);

(3) Is covered under a policy of workers' compensation insurance maintained by the person or entity for whom the provider is providing services;

(4) Is a construction services provider performing work directly for the owner of the property; provided, however, that this subdivision (b)(4) shall not apply to a construction services provider who acts as a general or intermediate contractor and who subsequently subcontracts any of the work contracted to be performed on behalf of the owner;

(5) Is a construction services provider building a dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on the construction service provider's own property; or

(6) Is a provider whose employment at the time of injury is casual as provided in § 50-6-106.

(c) A subcontractor engaged in the construction industry under contract to a general contractor engaged in the construction industry may elect to be covered under any policy of workers' compensation insurance insuring the general contractor upon written agreement of the general contractor, regardless of whether such subcontractor is on the registry established pursuant to this part, by filing written notice of the election, on a form prescribed by the administrator of the workers' compensation division, with the division. It is the responsibility of the general contractor to file the written notice with the division. Failure of the general contractor to file the written notice shall not operate to relieve or alter the obligation of an insurance company to provide coverage to a subcontractor when the subcontractor can produce evidence of payment of premiums to the insurance company for the coverage. The election shall in no way terminate or affect the independent contractor status of the subcontractor for any other purpose than to permit workers' compensation coverage. The election of coverage may be terminated by the subcontractor or general contractor by providing written notice of the termination to the division and to all other parties consenting to the prior election. The termination shall be effective thirty (30) days from the date of the notice to all other parties consenting to the prior election and to the division.

(d) Nothing in this part shall be construed as exempting or preventing a construction services provider from carrying workers' compensation insurance for any of its employees. The requirement set out in this subsection (d) shall apply whether or not the provider employs fewer than five (5) employees.

§ 50-6-903. Exemption application

Effective: January 1, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Any construction services provider who meets one (1) of the following criteria may apply for an exemption from § 50-6-902(a):

(1) An officer of a corporation who is engaged in the construction industry; provided, that no more than five (5) officers of one (1) corporation shall be eligible for an exemption;

(2) A member of a limited liability company who is engaged in the construction industry if such member owns at least twenty percent (20%) of such company;

(3) A partner in a limited partnership, limited liability partnership or a general partnership who is engaged in the construction industry if such partner owns at least twenty percent (20%) of such partnership;

(4) A sole proprietor engaged in the construction industry; or

(5) An owner of any business entity listed in subdivisions (a)(1)-(3) that is family-owned; provided, that no more than five (5) owners of one (1) family-owned business may be exempt from § 50-6-902(a).

(b) A construction services provider may be eligible for and may utilize multiple exemptions if the construction services provider meets the requirements set out in subsection (a) for each such exemption and complies with § 50-6-904 for each such exemption in which the construction services provider seeks to obtain; provided, however, that a construction services provider applying for a second or subsequent exemption shall not be required to pay the fees set out in § 50-6-912(a)(1) and (2), but shall instead pay the fee set out in § 50-6-912(a)(9) for each subsequent workers' compensation exemption registration and shall pay the fee set out in § 50-6-912(a)(10) for each subsequent registration renewal.

(c) (1) A construction services provider who is an individual and who does not meet the criteria established in subsection (a), but who is a member of a recognized religious sect or division and is an adherent of established tenets or teachers of such sect or division by reason of which such construction services provider is conscientiously opposed to acceptance of the benefits provided by this chapter may apply for an exemption from § 50-6-902(a); provided, however, that no more than five (5) individuals associated with one business entity may be exempt from § 50-6-902(a).

(2) Any applicant applying for an exemption from § 50-6-902(a) pursuant to subdivision (c)(1) shall provide an affidavit from the leader of the recognized religious sect or division stating that the individual filing the application for an exemption is a member of the recognized religious sect or division and is exempt, as evidenced by the Internal Revenue Service Form 4029, or similar form used

by the internal revenue service. The leader of the recognized religious sect or division shall notify the secretary of state and department, in writing, if the member of the recognized religious sect or division who obtains an exemption from § 50-6-902(a) leaves or withdraws membership from the recognized religious sect or division.

(3) Each individual employee of a construction services provider who meets the religious exemption requirements pursuant to this subsection (c) shall pay the fees set out in § 50-6-912(a)(1) and (a)(2). Any collected fees shall be deposited into the employee misclassification education and enforcement fund, pursuant to § 50-6-913.

§ 50-6-904. Construction services provider registration; exemption application, fees, and documentation

Effective: January 1, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) (A) Any construction services provider applying for an exemption from § 50-6-902(a) who has not been issued a license by the board shall obtain a construction services provider registration from the secretary of state at the same time such provider applies for such exemption.

(B) The secretary of state is authorized and directed to issue the construction services provider registration on behalf of the board. The secretary of state shall issue an identification number assigned to the provider's registration. The board shall obtain such identification number and other identifying information from the secretary of state.

(2) Any construction services provider requesting exemption from § 50-6-902(a) shall submit an application along with the required filing fees to the secretary of state. The applicant shall provide sufficient documentation for the secretary of state to assure that such applicant meets the requirements set out in § 50-6-902, including, but not limited to:

(A) The applicant's full legal name;

(B) The applicant's birth month;

(C) The applicant's physical address; provided, that the applicant may provide a post office box number for purposes of receiving mail from the secretary of state, as long as the applicant also provides a physical address for the business entity for which the applicant is an officer, member, partner or owner;

(D) A telephone number through which the applicant can be reached;

(E) The name of the business entity through which the applicant is seeking the workers' compensation exemption;

(F) The federal employer identification number issued to the applicant if a sole proprietor or a business entity for which the applicant is an officer, member, partner or owner seeking exemption pursuant to § 50-6-903, and the last four (4) digits of the applicant's social security number; provided, however, that if an applicant seeks an exemption pursuant to § 50-6-903(c), the ap-

plicant may provide the last four (4) digits of a control number issued to the applicant by the social security administration instead of the last four (4) digits of the applicant's social security number;

(G) The contractor license number issued by the board to such applicant or the construction services provider registration number issued by the secretary of state to such applicant;

(H) A current license issued by a local government pursuant to § 67-4-723, if the business entity through which the applicant is seeking the workers' compensation exemption is required by law to obtain such license;

(I) Any other information the secretary of state deems necessary to identify such applicant; and

(J) If the construction services provider is applying for an exemption pursuant to the criteria set out in § 50-6-903(c), the provider shall submit a copy of an approved Internal Revenue Service Form 4029 or similar form used by the internal revenue service, to show that an application for exemption from social security and medicare taxes and waiver of benefits has been approved for such provider applying for an exemption pursuant to this part.

(3) The secretary of state shall verify that the applicant meets the qualifications set out in § 50-6-902 upon a review of its records and the records provided by such applicant.

(b) The application shall be on a form designed by the secretary of state and shall contain a statement that specifies the eligibility requirements for exemption, contain an attestation that the applicant meets the eligibility requirements and contain a statement that a false statement on such application is subject to the penalties of perjury set out in § 39-16-702.

(c) The application, as well as a process for submission of such application, shall be available through the secretary of state's web site or by contacting the secretary of state's office in person or by mail.

§ 50-6-905. Application filing; registry

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) If a construction services provider's application delivered to the secretary of state meets the requirements of this part, as determined by the secretary of state, the secretary of state shall file the application and:

(1) Issue a notice to such provider that the provider is listed on the registry; and

(2) Publish on the registry, contained on the secretary of state's web site, the provider's name and other identifying information, including, but not limited to:

(A) The full legal name of the provider;

(B) The specific identification number issued to the provider by the secretary of state upon filing the application;

(C) The period in which the provider is exempt, including the date and time in which such exemption expires; and

(D) Any other identifying information the secretary of state deems necessary for the public to identify such provider.

(b) The provider shall not be exempt from the requirement of § 50-6-902(a) until the provider's application is filed by the secretary of state and the applicant's name and other identifying information is published on the registry. If a provider's exemption is revoked pursuant to § 50-6-908, such revocation is effective upon the provider's name and other identifying information no longer appearing on the registry after being removed by the secretary of state pursuant to § 50-6-908.

(c) A provider listed on the registry may correct a document filed with the secretary of state if the document contains an incorrect statement or was defectively executed, attested, sealed, verified or acknowledged. A document shall be corrected in a manner established by the secretary of state.

(d) A provider listed on the registry shall maintain a current physical mailing address with the secretary of state. A change of address shall be made in a manner established by the secretary of state.

§ 50-6-906. Refusal to file; appeal

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) If the secretary of state refuses to file an application and list the construction services provider on the registry, the secretary of state shall return such application to the provider within ten (10) business days after the document was received for filing, together with a brief, written explanation of the reason for the secretary of state's refusal to file.

(b) If the secretary of state refuses to file an application and list a provider on the registry, the provider may appeal the refusal to the chancery court of Davidson County. The appeal shall be commenced by petitioning the court to compel listing such provider on the registry and shall attach to the petition the application and the secretary of state's explanation of the secretary of state's refusal to file.

(c) The court may reverse or modify the actions of the secretary of state if the rights of the provider have been prejudiced because the secretary of state's actions are:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the secretary of state;

(3) Made upon unlawful procedure; or

(4) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(d) After any hearing deemed necessary by the court, the court may summarily order the secretary of state to list such provider on the registry or take other action the court considers appropriate.

(e) The court's final decision may be appealed as in other civil proceedings.

§ 50-6-907. Exemption period; renewal

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) The exemption obtained pursuant to this part shall be valid for two (2) years from a date and time set by the secretary of state. No more than sixty (60) days prior to the expiration of the exemption period, a construction services provider may file an application to renew an exemption. Renewal of an exemption shall be made in a manner established by the secretary of state.

(b) The secretary of state shall remove the construction services provider's name from the registry at the close of business on the day the provider's exemption expires. If the exemption expires on a day that state offices are closed or the secretary of state's office is closed, the exemption shall expire at the close of business on the next business day.

(c) A construction services provider whose registration expires under this section may renew the exemption by following the procedure outlined in § 50-6-904.

§ 50-6-908. Exemption revocation

Effective: October 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) Any construction services provider who obtains an exemption and subsequently chooses to revoke such exemption shall:

(A) Give notice to the person or entity for whom the provider may currently be providing services of the revocation in accordance with a form prescribed by the secretary of state;

(B) Attest as to whether or not the provider has any employment related injuries at the time of such revocation that occurred while providing services to a person or entity that did not provide coverage under a policy of workers' compensation; and

(C) Within twenty-four (24) hours of such revocation, notify any person or entity for whom the provider is currently providing services that the provider has voluntarily revoked the provider's workers' compensation exemption.

(2) Upon filing such notice, the secretary of state shall remove the construction services provider's name from the registry.

(3) A construction services provider who revokes an exemption under this section may reapply for an exemption by following the procedure set forth in § 50-6-904.

(b) (1) In addition to the revocation set out in subsection (a), a workers' compensation exemption shall be revoked by the secretary of state upon:

(A) Notification from the board that the board has revoked or suspended any license issued to the construction services provider by the board, including a license issued to a business entity through which the construction services provider obtained such an exemption. For purposes of this subdivision

(b)(1)(A), if a construction services provider's license is revoked, whether or not such license is in the provider's individual name or in the name of a business entity through which the provider obtained an exemption, then any exemption obtained through such business entity shall be revoked;

(B) Notification from the department of any violations of § 50-6-412 by the construction services provider, including any violation against a business entity through which the construction services provider obtained such an exemption. For purposes of this subdivision (b)(1)(B), if a construction services provider has violated § 50-6-412, whether or not such violation was committed by the individual or a business entity through which the provider obtained an exemption, then any exemption obtained through such business entity shall be revoked and all exemptions in the provider's name shall be subject to revocation;

(C) A determination by the secretary of state that the construction services provider no longer meets the requirements for an exemption established pursuant to this part; or

(D) A determination by the secretary of state that the construction services provider failed to renew prior to the expiration date of such exemption or the provider failed to pay any fees required to be paid pursuant to this part.

(2) Any notification of a violation made by the department pursuant to subdivision (b)(1)(B) shall include information indicating whether such violation requires a temporary or permanent revocation pursuant to § 50-6-412.

(3) If a provider's exemption is revoked pursuant to this section, the secretary of state shall:

(A) Remove the construction services provider's name from the registry within seven (7) days of receipt of notification from the department or the board, or upon making a determination as provided in subdivision (b)(1)(C) or (b)(1)(D); and

(B) Notify the construction services provider that such provider is required to notify, within twenty-four (24) hours of such revocation, any person or entity for whom the provider is currently providing services that the provider's workers' compensation exemption has been revoked.

(4) If a provider's exemption is revoked pursuant to subdivision (b)(1), the administrative and judicial procedures available to such provider shall be those procedures set out in § 50-6-906.

(c) If a construction services provider's exemption is revoked pursuant to this section, the construction services provider shall be required to carry workers' compensation insurance as provided in § 50-6-902(a); provided, that such construction services provider does not otherwise meet an exemption set out in § 50-6-902(b).

(d) A construction services provider whose exemption is revoked for any reason set out in this part shall be notified of such revocation in writing, and shall not be entitled to a refund of filing fees.

§ 50-6-909. Exemption reinstatement

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Except as provided in § 50-6-412(h)(2), a construction services provider whose exemption is revoked pursuant to § 50-6-908 may apply to reinstate such exemption in the same manner as provided for in this part for an initial application.

(b) A construction services provider whose exemption is revoked under § 50-6-908(b) may only be granted a reinstatement of exemption:

(1) Upon notification to the secretary of state from the board that such provider's license is no longer revoked or suspended;

(2) Upon notification from the department of labor and workforce development to the secretary of state that the provider qualified for reinstatement pursuant to § 50-6-412(g); and

(3) If the secretary of state determines that the provider meets the requirements for an exemption established pursuant to this part.

(c) Upon verification by the secretary of state that the requirements of subsection (b) are met, the secretary of state shall file the application in accordance with § 50-6-905.

§ 50-6-910. Action for damages for injury

Effective: October 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Any action to recover damages for injury, as defined by § 50-6-102, by a construction services provider shall proceed as at common law, and the defendant in the suit may make use of all common law defenses if, at the time of the injury, the construction services provider was:

(1) Listed on the registry as having a workers' compensation exemption and working in the service of a business entity through which the construction services provider obtained such an exemption;

(2) Not covered under a policy of workers' compensation insurance maintained by the person or entity for whom the provider was providing services at the time of such injury; and

(3) Eligible for an exemption pursuant to § 50-6-914(b)(2), if such eligibility requirements apply, at the time of such injury.

(b) Any construction services provider proceeding as at common law pursuant to subsection (a) shall forego the right to sue to establish or reestablish workers' compensation coverage.

§ 50-6-911. Notices

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) (1) The secretary of state shall provide notice on its web site that the registry is for purposes of establishing providers who are exempt from workers' compensation coverage and in no way reflects licensing or certification of any construction services provider.

(2) The board, the department of commerce and insurance and the department of labor and workforce development shall each develop a notice provision to inform the public that any person or entity interested in determining whether a construction services provider is exempt from workers' compensation coverage shall review the secretary of state's web site. Such notice provision shall be prominently displayed on the web sites of the board, the department of commerce and insurance and the department of labor and workforce development.

(b) (1) The secretary of state shall provide notice to the department of labor and workforce development, the board and the department of commerce and insurance when a construction services provider is added to or removed from the registry.

(2) If any construction services provider has a license issued by the board, and such license is revoked or suspended, the board shall immediately notify the secretary of state, in order for the secretary of state to revoke such provider's exemption pursuant to § 50-6-908(b).

§ 50-6-912. Fees

Effective: January 1, 2013

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) The secretary of state may charge the following maximum fees for each of the following:

(1) The issuance of a construction services provider registration to providers who have not been issued a license by the board $50

(2) The issuance of a construction services provider workers' compensation exemption $50

(3) The filing of correction information pursuant to § 50-6-905(c)..... $20

(4) The filing of change of address information pursuant to § 50-6-905(d) $20

(5) The filing of a construction services provider workers' compensation exemption renewal $50

(6) The filing of a construction services provider registration renewal to providers who have not been issued a license by the board $50

(7) The filling of a revocation pursuant to § 50-6-908(a)..... $20

(8) The issuance of a copy of the notice issued pursuant to § 50-6-905(a)(1) $20

(9) The issuance of a second or subsequent construction services provider workers' compensation exemption registration ... $20 per registration

(10) The filing of a second or subsequent construction services provider workers' compensation exemption renewal .....$20 per renewal

(b) In addition to the maximum fees authorized in subsection (a), the secretary of state is authorized to charge an online transaction fee to cover costs associated with processing payments for applications submitted online.

(c) Except as provided in subsections (a) and (b), no other fees shall be charged by the secretary of state to administer this part.

§ 50-6-913. Employee misclassification education and enforcement fund

Effective: July 1, 2014

<Section applicable to injuries occurring on and after July 1, 2014. For section applicable to injuries occurring prior to July 1, 2014, see appendix to Chapter 50-6.>

(a) There is created a fund to be known as the "employee misclassification education and enforcement fund." Any fee collected pursuant to § 50-6-912(a) shall be deposited in the employee misclassification education and enforcement fund. Moneys in the fund shall be invested by the state treasurer in accordance with the provisions of § 9-4-603. The fund shall be administered by the administrator of the workers' compensation division.

(b) All costs of the secretary of state associated with the administration of this part shall be paid by the administrator of the workers' compensation division from the employee misclassification education and enforcement fund. Moneys remaining in the fund after such payment may be expended, subject to appropriation by the general assembly, at the direction of the administrator of the workers' compensation division for the purchase of computer software and hardware designed to identify potential employee misclassification activity, for the hiring of additional employees to investigate potential employee misclassification activity, for education of employers and employees regarding the requirements of this part and in support of the ongoing investigation and prosecution of employee misclassification.

(c) Any amount in the employee misclassification education and enforcement fund at the end of any fiscal year shall not revert to the general fund, but shall remain available for the purposes set forth in subsection (b). Interest accruing on investments and deposits of the employee misclassification education and enforcement fund shall be credited to such account, shall not revert to the general fund, and shall be carried forward into each subsequent fiscal year.

§ 50-6-914. General contractor, intermediate contractor, or subcontractor; liability for compensation to injured employee

Effective: October 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) Except as provided for in subsection (b), a general contractor, intermediate contractor or subcontractor shall be liable for compensation to any employee injured while in the

employ of any of the subcontractors of the general contractor, intermediate contractor or subcontractor and engaged upon the subject matter of the contract to the same extent as the immediate employer.

(b) (1) Notwithstanding subsection (a) and subject to subdivision (b)(2), a general contractor, intermediate contractor or subcontractor shall not be liable for workers' compensation to a construction services provider listed on the registry established pursuant to this part.

(2) (A) No more than three (3) construction services providers performing direct labor on a commercial construction project may be exempt from § 50-6-902(a).

(B) For purposes of subdivision (b)(2)(A), the three (3) construction services providers shall be selected by the general contractor. The limit of three (3) set out in subdivision (b)(2)(A) shall be three (3) individuals listed on the registry as having a workers' compensation exemption and working in the service of a business entity through which the construction services provider obtained such an exemption.

(C) If a general contractor allows a construction services provider to provide services on a commercial construction project while such provider is utilizing an exemption pursuant to this part, the general contractor shall:

(i) Notify each such construction services provider in writing that the provider has been chosen by the general contractor as one of the three (3) construction services providers performing direct labor who may be exempt from § 50-6-902(a); and

(ii) Maintain a record identifying each such construction services provider. The general contractor shall make the record maintained pursuant to this subdivision (b)(2)(C)(ii) available for inspection upon request by the general contractor's insurance provider, the department, and the department of commerce and insurance.

(c) Any general contractor, intermediate contractor or subcontractor who pays compensation under subsection (a) may recover the amount paid from any person or entity who, independently of this section, would have been liable to pay compensation to the injured employee, or from any subcontractor.

(d) Every claim for compensation under this section shall be presented first to and instituted against the immediate employer, but the proceedings shall not constitute a waiver of the employee's rights to recover compensation under this chapter from the general contractor, intermediate contractor or subcontractor; provided, that the collection of full compensation from one (1) employer shall bar recovery by the employee against any others, and the employee shall not collect from all employers a total compensation in excess of the amount for which any of the contractors is liable.

(e) This section applies only in cases where the injury occurred on, in, or about the premises on which the general contractor has undertaken to execute work or that are otherwise under the general contractor's control or management.

§ 50-6-915. Records; confidentiality

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Notwithstanding any law to the contrary, records maintained by the secretary of state relative to the construction services provider registration and to the workers' compensation exemption registration, other than records displayed on the registry established pursuant to this part, shall not constitute a public record as defined in § 10-7-503 and shall not be open for public inspection.

§ 50-6-916. Certificate of workers' compensation insurance

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Nothing in this part shall be construed as preventing or prohibiting any contractor from requiring a certificate of workers' compensation insurance from any of its subcontractors or any construction services providers providing services to such contractor.

§ 50-6-917. Assigned risk plan; policy issued

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

A policy of workers' compensation insurance issued through the assigned risk plan as provided in § 56-5-314 that insures a person engaged in the construction industry shall be governed by this part, and a state agency shall not impose requirements relative to this part on such a policy other than those imposed by this part.

§ 50-6-918. Employee misclassification advisory task force; recommendations

Effective: July 10, 2014

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

Beginning with fiscal year 2012-2013, and each fiscal year thereafter, the employee misclassification advisory task force created pursuant to former § 50-6-919 shall make recommendations to the general assembly regarding programs and services to be funded from the employee misclassification education and enforcement fund created pursuant to § 50-6-913.

§ 50-6-920. Penalties

Effective: March 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

(a) It is an offense for any employer to knowingly:

(1) Coerce or attempt to coerce, as a precondition to employment or otherwise, a job applicant to obtain an exemption pursuant to this part; or

(2) Coerce, attempt to coerce, discharge or take any adverse employment action against an employee because the employee has failed to obtain an exemption pursuant to this part.

(b) A violation of subsection (a) is a Class A misdemeanor.

§ 50-6-921. Construction services provider workers' compensation exemption effective date

Effective: October 1, 2011

<Section applicable to injuries occurring both prior to and on and after July 1, 2014.>

The construction services provider workers' compensation exemption for any provider not exempt prior to March 1, 2011, who has been placed on the workers' compensation exemption registry by the secretary of state shall be in effect beginning at 12:00 a.m. on March 1, 2011, regardless of such provider's date of application; provided, that any person exempt under provisions of law in effect prior to March 1, 2011, shall maintain such exemption until March 1, 2011.