

HISTORICAL RESEARCH SUMMARY OF WORKERS' COMPENSATION ACTS IN ARKANSAS

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Key to Abbreviations:

Ark. Code Ann. or ACA:	Arkansas Code Annotated
Ark. Stat. Ann. :	Arkansas Statutes Annotated
AWCC or Commission or WCC:	Arkansas Workers' Compensation Commission
AWW:	Average Weekly Wage
PPD:	Permanent Partial Disability
PTD:	Permanent Total Disability
TTD:	Temporary Total Disability

2007

Acts of 2007 affecting the workers' compensation community are posted here.

2005

Act 169 of 2005 effective August 12, 2005

Clarified contractor requirements in Ark. Code Ann. § 17-25-404, adding that failure to comply with ordinances, rules, and regulations of state offices such as the WCC would allow the state to proceed against contractor surety bonds.

Act 505 of 2005

–Amended Ark. Code Ann. § **11-9-303** regarding a carrier's premium tax payments for workers' compensation *effective August 12, 2005*.

–Amended Ark. Code Ann. § **11-9-305** for tax payment by public employers *effective January 1, 2006*.

–Amended Ark. Code Ann. § **11-9-306** determining tax rates for workers' compensation *effective January 1, 2006*.

–Amended Ark. Code Ann. § **11-9-409** regarding carriers' accident prevention services *effective August 12, 2005*.

Act 1179 of 2005 effective August 12, 2005

A statewide emergency system. For workers' compensation, it defined an emergency responder and who would be liable for injury or death of such worker. **See Act 1823 of 2005**.

Act 1250 of 2005 effective August 12, 2005

Amended the definition of "compensable injury" in Ark. Code Ann. § **11-9-102(4)(A)(ii)(b)**, adding "neck" injury.

Act 1692 of 2005 effective April 5, 2005

Amended Ark. Code Ann. § **11-9-102(16)(A)** regarding objective medical evidence for hearing loss and tests that can be used to establish impairment in hearing loss cases.

Act 1697 of 2005 *effective August 12, 2005*

The Insurance Reform Act included a policyholder bill of rights, added language to the fraud statutes, and expanded third party administrator definitions.

Act 1705 of 2005 *effective April 4, July 1, and August 12, 2005*

Renamed the Employment Security Department the Department of Workforce Services throughout the Arkansas Code Annotated, including ACA §§ **11-9-102(17)**, **11-9-506**, **11-10-314(n)** and **(q)**, all affecting workers' compensation (renaming section *effective July 1 2005*). **Note: The ESD also was found in Rule 32 I. A. 1.**

Act 1711 of 2005 *effective August 12, 2005*

Added Ark. Code Ann. § **17-25-514** to the contractors' statutes and required residential building contractors to have workers' compensation insurance or a certificate of noncoverage when applying for a contractor's license or a license renewal.

Act 1823 of 2005 *effective April 6, 2005*

Amended the Homeland Security Information Act, adding a definition of "emergency service agency" of the state, a county, or a city that would be a first responder in the event of a catastrophe. **See Act 1179 of 2005.**

Act 1843 of 2005 Rights of Citizens in Government Act, *effective August 12, 2005*

All-new subchapter in the Arkansas Code, §§ 16-63-501 – 16-63-508. Act gives the public the right to petition government for a redress...in connection with...any written or oral statement, writing, or petition made...before...a...proceeding authorized by state ...government...in connection with an issue under consideration.... If there is any impact on AWCC, the greatest might be found in 16-63-507: "All discovery and any pending hearings...in an action for a claim...shall be stayed...."

Act 1917 of 2005 *effective August 12, 2005*

Amended Ark. Code Ann. § **11-9-402**, adding "intermediate subcontractor" to the liability list and prohibiting a certificate of noncoverage in certain circumstances.

Act 2215 of 2005 *effective August 12, 2005*

Added Ark. Code Ann. §§ **23-81-701** through **23-81-707** for structured settlements, with **workers' compensation settlements** specified in § **23-81-702(12)** and setting out definitions and details for approving such settlements.

Act 2218 of 2005 Government Efficiency Act, *Effective August 12, 2005*

Authorized a review "**every division of state government.**" Recommendation will be made to General Assembly "**on the abolition, continuation, or reorganization of each ...agency.**"

Act 2263 of 2005 Agency Forms & Contact Information, *Effective August 12, 2005*

Required agencies to include on any form, notice or publication "**a telephone number for inquiries...and, to the extent practicable, the name of a contact person....**"

2003

Act 55 of 2003 First Extraordinary Session *effective July 1, 2003*

Amended **Revenue Stabilization Law**; deleted language from Ark. Code Ann. § 19-5-922 transferring "first \$100,000 of **workers' compensation premium taxes**" to State

Insurance Department Trust Fund.

Act 227 of 2003 Regular Session *effective July 1, 2003*

Amended Ark. Code Ann. § **11-9-703**, adding new subdivision (5) concerning **preliminary conference procedures**.

Act 366 of 2003 Regular Session *effective July 16, 2003*

Added a new subchapter at Ark. Code Ann. § 25-20-405 creating municipal electric utility consolidated authorities; -405(8) allowed entities to **self-insure without the deposit of indemnity bonds, letters of credit, or securities**.

Act 466 of 2003 Regular Session *effective March 18, 2003*

Amended Ark. Code Ann. § 23-63-1602 regarding **captive insurers, reinsurance** and new policy wording.

Act 468 of 2003 Regular Session *effective March 18, 2003*

Amended Ark. Code Ann. § **11-9-404(a)(3)** (C)(vi), adding new subdivision (c) to allow waiver of **group self-insurer** requirement to maintain **excess insurance**; added new subdivision (d) authorizing Arkansas Workers' Compensation Commission to establish additional financial requirements in exchange for this waiver, including **bonds**; provided expiration date of July 1, 2005, for (c) and (d) unless extended by the General Assembly.

Act 507 of 2003 Regular Session *effective July 16, 2003*

Amended Ark. Code Ann. § 24-10-102(15) to allow **workers' compensation benefits** to be calculated into final average pay under the **Local Police and Fire Retirement System** for determining disability retirement amounts; retroactive, allowing recalculations for earlier recipients' payments, although not for prior payments.

Act 516 of 2003 Regular Session *effective March 18, 2003*

Clarified **Insurance Commissioner** authority over multiple employer trusts, deleting text in regard to **self-insured employers** and **third party administrators**.

Act 540 of 2003 Regular Session *effective July 1, 2003*

Amended **property and casualty insurer solvency** regulations.

Act 623 of 2003 Regular Session *effective March 24, 2003*

Because differences between electronic and paper versions of the Arkansas Code cause confusion, this act specified that the **official paper copy** of differing versions would take precedence over the **official electronic version**.

Act 1203 of 2003 Regular Session *effective July 16, 2003*

The Omnibus Insurance Producer Act. Revised agent and adjuster testing and licensing statutes and amended probationary status for insurance producers.

Act 1237 of 2003 Regular Session *effective April 10, 2003*

Amended Ark. Code Ann. § **11-9-102**, adding an adverse reaction to **smallpox** vaccine to the definition of compensable injury.

Act 1313 of 2003 Regular Session *effective July 16, 2003*

Made threatening a judicial officer a Class C felony and defined "**judicial officer**" as "... any person authorized to hear evidence under oath."

Act 1328 of 2003 Regular Session *effective July 1, 2003*

Repealed the **Home Inspector Registration Act** and created an entirely new set of

provisions. Ark. Code Ann. § 17-52-315(a)(2): "...submit a...**certificate of insurance**...that the applicant has...if applicable, workers' compensation..."

Act 1455 of 2003 Regular Session *effective July 16, 2003*

Freedom of choice for ear examinations. Ark. Code Ann. §§ 17-90-101 et seq., 17-95-201 et seq., 17-100-101 et seq., 20-77-506, and 23-79-114.

Act 1473 of 2003 Regular Session *effective July 1, 2003*

Technical corrections act. Amended Ark. Code Ann. § **11-9-508(d)** to read "**balance**" **billing**; amended Ark. Code Ann. § **11-9-711(d)** authorizing **school employees** to appeal cases to Court of Appeals instead of circuit court; amended Ark. Code Ann. § **14-60-104** regarding **county government reinsurance**.

Act 1478 of 2003 Regular Session *effective July 16, 2005*

Revised the numbering system of rules for state commissions. Codified in Ark. Code Ann. § **25-15-204**. AWCC's number would be 099 and would precede all its rules. Required AWCC to revise its rules to comply with a **uniform numbering system** by July 1, 2005. Required agency to submit proposals to Secretary of State for inclusion on Internet for 30 days; required compliance with Ark. Code Ann. §§ **25-15-218** and **10-3-309**.

Act 1583 of 2003 Regular Session *effective July 16, 2003*

Deleted from Ark. Code Ann. § 19-5-922(b)(1) the language obligating "the first \$100,000" of **workers' compensation tax premiums** to the Arkansas Insurance Department.

Act 1750 of 2003 Regular Session *effective July 16, 2003*

New regulations for professional employer organizations, mentioning workers' compensation insurance throughout.

–Amended Ark. Code Ann. § **11-9-408(c)**;

–Repealed Ark. Code Ann. § 23-92-301 et seq. ("**Arkansas Employee Leasing Act**") and replaced it with a new subchapter, §§ 23-92-401 – 23-92-419 ("**Arkansas Professional Employer Organization Recognition and Licensing Act**");

–Amended Ark. Code Ann. § 23-67-304(b) (**Workers' Compensation Insurance Plans**);

–Defined **coemployment**, **coemployer**, **controlling person**;

–Specified difference between **temporary employee** and professional employer services;

–Added language on **workplace safety**;

–Added to rights and duties of the **AWCC** to release "otherwise confidential information" while maintaining **confidentiality** unless used in an **administrative proceeding**;

–Provided for notification to AWCC by Insurance Commissioner of **cease and desist** order for any professional employer service;

–Authorized suspension for **fraud** in **rate classifications** and **self-insurance**;

–Required **securities**, **bonds**, or **letter of credit** to secure benefits for employees;

–Mandated responsibility for **workers' compensation insurance** to either the client or professional employer organization;

- Required record maintenance regarding premium, **class codes**, and **loss experience**;
- Reenforced **exclusive remedy** of Ark. Code Ann. § **11-9-105**;
- Required client to ensure **subcontractors** have workers' compensation coverage;
- Allowed the AWCC to exchange information with other specified agencies but required notification of professional employer organizations under the **Freedom of Information Act**.

Act 1790 of 2003 Regular Session *effective July 16, 2003*

Required notice of **nonrenewals** for workers' compensation policies prior to expiration dates. Also required advance notice of **premium increases** of 25% or more. Failure to give notice would require insurer to extend the existing policy and rate.

2001

Act 738 of 2001 *effective July 1, 2001*

Repealed the Homebuilders Act, including Ark. Code Ann. § **17-34-105** requiring "...a certificate...by an insurance company...that the applicant has...if applicable...workers' compensation coverage...."

Act 743 of 2001 *effective March 13, 2001*

Amended Ark. Code Ann. § **11-9-106(d)** to give specialized law enforcement powers to fraud investigators.

Act 1084 of 2001 *effective August 13, 2001*

Enacted the Workplace Violence Prevention Act.

Act 1137 of 2001 *effective January 1, 2002*

Increased payments for all insurers into a guaranty fund.

Act 1281 of 2001 *effective Aug. 13, 2001 (except attorney fee provisions)*

–Added Ark. Code Ann. § **11-9-117**, empowering the AWCC to enact medical diagnostic and treatment guidelines for **carpal tunnel syndrome** based upon recommendations of the AFL/CIO and the state Chamber of Commerce;

–Added Ark. Code Ann. § **11-9-118**, staying the collection of **provider fees** in contested cases, on the condition that the provider is given proper written notice of the claim for compensation by claimants or their representatives; defines "proper" notice; tolls the statute of limitations "until...determination of noncompensability...is made...or...until a final determination of noncompensability is rendered and all appeal deadlines have passed";

–Amended Ark. Code Ann. § **11-9-601(e)**, changing "clear and convincing" evidence to "a preponderance of the evidence" for occupational **diseases**;

–Added a new subsection (d) to Ark. Code Ann. § **11-9-705** on **expert testimony**;

–Amended Ark. Code Ann. § **11-9-715** for **attorney fees**, eliminating those for medical benefits won by claimants' lawyers but, in other cases, increasing fees for indemnity benefits controverted and awarded; included payment of fees from the Death and PTD Trust Fund; amended payment of fees for uncontroverted claims, adding language "by the...employee or dependents..."; allowed medical providers to contract with claimants' attorneys to recover disputed bills; authorized AWCC to determine the amount of fees up

to a maximum of 25%; and raised attorney fees for appeals to the Full Commission, the Court of Appeals and the Supreme Court *effective “with respect to benefits payable in connection with disability or death due to injuries...on or after July 1, 2001.”*

Act 1367 of 2001 *effective April 5, 2001*

Amended workers' compensation fraud language in Employment Security Division statutes to add Ark. Code Ann. § 11-10-314(q), providing that ESD records might be used in fraud prosecution under Ark. Code Ann. §§ 11-9-106(d)(3) and 11-9-106(e)(2).

Act 1391 of 2001 *effective April 5, 2001*

Allowed captive insurance companies to apply for workers' compensation licensing.

Act 1651 of 2001 *effective August 13, 2001*

Amended Ark. Code Ann. § 11-9-110 allowing the Department of Corrections to be excepted from provisions holding that compensation benefits are not subject to garnishment, attachment, and levy.

Act 1721 of 2001 *effective August 13, 2001*

Amended the Workers' Compensation Plan regarding reviews.

Act 1757 of 2001 *effective August 13, 2001*

Technical corrections act for Arkansas workers' compensation statutes:

–Amended Ark. Code Ann. §§ 11-9-102(9)(D) and 11-9-402 regarding **certifications of non-coverage** (CnC) for sole proprietors and partners under the workers' compensation system; allowing fees for the CnC, providing for two-year duration of a CnC beginning in 2001 and specifying expiration dates for every CnC issued from 1993 through 2000;

–Added Ark. Code Ann. § 11-9-207(a)(14) to allocate funds for **Kids' Chance** of Arkansas, Inc., a non-profit charitable organization providing scholarships to children of workers killed on the job or permanently and totally disabled from a compensable injury;

–Amended Ark. Code Ann. § 11-9-302 to authorize **third party administrator** qualifying fees;

–Clarified determination of the state **AWW** used to calculate maximum workers' compensation benefit amounts;

–Changed, for **drug-free workplace programs** under workers' compensation, drug testing review officer to medical review officer, and changed language saying that employees testing positive for drugs "may forfeit eligibility for workers' compensation" to "may be precluded from workers' compensation...."; and

–Authorized AWCC to collect an **appeal** processing fee under Ark. Code Ann. § 11-9-711(b).

1999

Act 20 of 1999 *effective July 30, 1999*

Amended Ark. Code Ann. § 11-9-102(12): Definition of "employment."

Act 583 of 1999 *effective July 30, 1999*

Amended Ark. Code Ann. § 14-26-104(b) on self-funding for workers' compensation.

Act 881 of 1999 *effective March 25, 1999*

Amended fraud language in Ark. Code Ann. § 11-9-106.

Act 977 of 1999 *effective July 30, 1999*

Created Ark. Code Ann. § 26-57-616, giving five-year limit on refunds for taxes collected under Ark. Code Ann. §§ 11-9-301 – 11-9-307; required record maintenance for five years.

Act 1167 of 1999 *effective July 30, 1999*

Amended Ark. Code Ann. § 11-9-514's language on **managed care** and **change-of-physician**.

Act 1168 of 1999 *effective July 30, 1999*

Eliminated from Ark. Code Ann. § 11-9-522(f) unconstitutional PPD provisions.

Act 1179 of 1999 *effective July 1, 1999*

Added Ark. Code Ann. § 11-9-116 to provide funding for the Arkansas Insurance Department's workers' compensation fraud unit; amended Ark. Code Ann. § 11-9-530, adding "implementation" to the title line; amended Ark. Code Ann. § 14-60-105 regarding workers' compensation for municipalities over 150,000 in population.

Act 1265 of 1999 *effective July 30, 1999*

Amended Ark. Code Ann. § 4-5-106, adding subsection (e) to eliminate workers' compensation **letters of credit** from expiration provisions.

Act 1552 of 1999 *effective July 30, 1999*

Codified in Ark. Code Ann. §§ 11-14-101 — 11-14-112 a program for **voluntary drug-free workplaces**. Authorization for AWCC rules and forms to administrate program. Much of text included in AWCC **Rule 36**. Allowed reduction of employer premiums; gave rights of employees and employers; outlined testing procedures; listed penalties, including forfeiture of both the benefits for employees and discounts for employers; specified confidentiality; defined "fitness-for-duty", "reasonable suspicion", "alcohol", "drug", "safety-sensitive position" and "chain-of-custody"; tied in program with employment-at-will and collective bargaining doctrines, Department of Transportation procedures, Department of Health licensing and physician-patient relationship.

1997

Act 234 of 1997 *effective February 21, 1997*

Amended Arkansas Employment Security Law, mentioning AWCC Health & Safety Division. Increased payment in Ark. Code Ann. § 11-10-314(i)(2)(B) from \$10 to \$50 for data subpoenaed by AWCC administration law judges.

Act 251 of 1997 *effective August 1, 1997*

Amended Ark. Code Ann. § 11-9-519, omitting (g); amended § 11-9-521 (**Schedule of Injuries**); and § 11-9-522(f)(1), changing "in an amount equal to, dollar for dollar" to "shall be reduced by 50%". **NOTE: Text in (f)(1) would be revised by Act 1168 of 1999.**

Act 260 of 1997 *effective February 24, 1997*

Amended Ark. Code Ann. §§ 11-9-519, -521 and -522 allowing General Assembly to review and approve the Impairment Rating Guide.

Act 479 of 1997 *effective March 13, 1997*

Amended law for pass-through entities; amended Ark. Code Ann. § 11-9-102 "employee" and "employer" **definitions** to include limited liability companies; expanded **certificate of**

noncoverage statute.

Act 791 of 1997 *effective March 25, 1997*

Home Inspector Registration Act, required home inspectors to submit insurance certificates, if applicable, for workers' compensation.

Act 808 of 1997 *effective July 1, 1997*

Added to § 11-9-106 fraud language.

Act 832 of 1997 *effective August 1, 1997*

Exempted real estate licensee from "employee" definition in Ark. Code Ann. § **11-9-102**.

Act 887 of 1997 *effective August 1, 1997*

Workers' compensation was made a "collateral source" of benefits under Crime Victims Reparations.

Act 950 of 1997 *effective August 1, 1997*

Amended ACA § 23-96-104(15)(B) to include a claimant receiving benefits in ACA § **11-9-210** in the definition of "person." Amended ACA § 23-96-110(i): "Nothing herein shall give a...beneficiary an independent cause of action against an indemnity reinsurer"; amended ACA § 3-96-114 to make two subsections mentioning ACA § **11-9-210**.

Act 972 of 1997 *effective August 1, 1997*

Provided for income withholding exclusive of workers' compensation except as allowed in § **11-9-110**. Allowed payor to withhold \$2.50 per pay period for administrative costs.

Act 1000 of 1997 *effective July 2, 1997*

Omnibus Insurance Code Act, including workers' compensation rate filings and employee leasing firms.

Act 1004 of 1997 *effective July 1, 1997*

Authorized Insurance Commissioner to issue adjusters' license for workers' compensation; amended requirements to be a workers' compensation adjuster.

Act 1058 of 1997 *effective July 1, 1997*

Welfare Reform Act included workers' compensation in definition of "unearned income." Amended Ark. Code Ann. § 20-76-214 to authorize the state to pay the employers' contributions required by workers' compensation laws.

Act 1070 of 1997

Revised Ark. Code Ann. § 4-5-106(d) regarding letters of credit: A perpetual letter of credit would expire five years after its stated date of issuance. **NOTE: Act 1265 of 1999 revised this statute to eliminate from the expiration dates any self-insured letters of credit for workers' compensation).**

ACT 1111 of 1997 *effective August 1, 1997*

Insurers to file annual report regarding workers' compensation; added to requirements in each annual report.

ACT 1143 of 1997 *effective April 7, 1997*

Amended the Workers' Compensation Insurance Plan.

Act 1179 of 1997 *effective August 1, 1997*

State Treasurer authorized to invest § **11-9-301(d)** workers' compensation funds according

to the State Treasury Management Law.

ACT 1202 of 1997 *effective July 1, 1997*

Required two- and four-year public institutions of higher education to provide workers' compensation for employees through private carriers, municipal self-funding groups or one or more self-funded entities or groups.

1995

Act 115 of 1995 *Effective February 1, 1995*

Created Emergency Volunteer Reserve, Ark. Code Ann. §§ 12-83-101 - 12-83-105, under state government and provided workers' compensation benefits in accordance with Ark. Code Ann. § 12-75-129.

Act 129 of 1995 *effective July 27, 1995*

Amended Ark. Code Ann. § **11-9-501(b)(4)** to raise the weekly compensation rate, effective January 1, 1996, from 70% to 85% of the state AWW if, by December, 1995, overall workers' compensation insurance rates had decreased at least 10%.

Act 169 of 1995 *effective February 6, 1995*

Same as Act 115.

Act 331 of 1995 *effective July 27, 1995*

Amended Ark. Code Ann. § 19-5-601 regarding municipalities and their turnback funds used to pay for workers' compensation claims as provided in ACA §§ 14-26-103 and 14-60-103.

Act 519 of 1995 *effective July 1, 1995*

Amended the Employment Security laws in reference to workers' compensation. Payments made to employees under workers' compensation would not be considered wages (Ark. Code Ann. § 11-10-215). The AWCC's safety division would be provided data for its extra-hazardous employer identification formula [ACA § 11-10-314(n)].

Act 546 of 1995 *effective July 27, 1995*

Amended Ark. Code Ann. § **11-9-201**, the composition of the AWCC. Not retroactive to existing commissioners. Labor and management representatives "shall" be attorneys or, based on previous affiliation, have had five years' experience in a labor organization or five years as employers.

Act 708 of 1995 *effective July 27, 1995*

Amended Ark. Code Ann. § 16-46-106, adding attorney fees if patient compelled to use the subpoena process to obtain medical records "in contemplation of, preparation for, or use in any legal proceeding."

Act 825 of 1995 *effective March 29, 1995*

Amended Ark. Code Ann. § **11-9-404**, changing self-insurance group requirements to allow for **common and homogeneous self-insurer groups**; amended §§ **11-9-901** and **11-9-903 – 11-9-910** regarding self-insurer guaranty funds for common self-insurer groups separate from private sector individual self-insurers and homogeneous groups.

Act 896 of 1995 *effective July 27, 1995*

Drug Dealer Liability Act for Workplace Accident or Injury, codified as Ark. Code Ann. §§ 16-24-101 – 16-24-112. Authorized employers to bring civil action against persons supplying illegal drugs to people injured on the job and allowed recovery for economic

damages including costs of accidents or injuries.

Act 919 of 1995 *effective July 27, 1995*

Amended the Ark. Code Ann. § **11-9-102** definitions of “employment” and “employee” for **real estate agents**. Added additional language regarding the **certificate of noncoverage**.

Act 962 of 1995 *effective July 1, 1995*

Allowed state workers in the Public Employee Retirement System to purchase credit for time lost due to work injuries for which workers’ compensation benefits were received.

Act 1123 of 1995 *effective July 27, 1995*

Required AWCC to file annual mission statements with the Legislative Council and summarize its activity during the previous year.

Act 1144 of 1995 *effective January 1, 1996*

Amended Ark. Code Ann. § **11-9-501(d)** for injuries on and after January 1, 1996. Raised the PPD rate for scheduled injuries except for amputations and those involving total loss of use. PPD for those exceptions “shall be the same as the employee’s total disability rate.”

Act 1163 of 1995 *effective July 27, 1995*

Amended the Revenue Stabilization Law. Directed the transfer of the first \$100,000 of workers’ compensation premium taxes from funds in Ark. Code Ann. § **11-9-301** to be transferred to the Insurance Department Trust Fund.

Act 1184 of 1995 *effective July 27, 1995*

Amended **child support** regulations in Ark. Code Ann. § **11-9-110**.

Act 1230 of 1995 *effective July 27, 1995*

Amended Ark. Code Ann. § **11-9-706** to add a \$10,000 fine for willfully refusing to pay uncontroverted medical or related expenses within 45 days.

Act 1233 of 1995 *effective July 27, 1995*

Added Ark. Code Ann. § 6-17-1308 to school laws to provide for leave of absence with pay for employees injured by assault in the course of school employment.

Act 1308 of 1995 *effective July 27, 1995*

Amended the Employee Leasing Act (Ark. Code Ann. §§ 23-92-301 – 23-92-315) by adding § 23-92-316 affecting firms claiming to be sole employers of the employees they lease. **Repealed by Act 1750 of 2003, the Professional Employer Organization Act.**

Act 1358 of 1995 *effective April 17, 1995*

Added a **definition of emergency medical care**, codified as Ark. Code Ann. § 20-9-309.

1993

Act 372 of 1993

Authorized spouse or minor children of inmate to petition to receive prisoner’s weekly disability benefits, codified as § **11-9-812**. **NOTE: Act 796 of 1993 placed other legislation in § 11-9-812, and the Arkansas Code Revision Commission subsequently moved that law to Ark. Code Ann. § 11-9-813.**

Act 452 of 1993

Amended Ark. Code Ann. § **11-9-901** to define public sector **self-insurer** relative to the self-insurer **Guaranty Fund**.

Act 652 OF 1993

Amended Ark. Code Ann. § 11-9-303(c), changing reference to General Revenue Fund Account to the State Insurance Department Trust Fund

Act 683 of 1993

Amended Ark. Code Ann. § 11-9-404(a)(2)(A) to allow employer to post **irrevocable letter of credit** as proof of ability to pay compensation and qualify as a self-insurer.

Act 796 OF 1993 *effective July 1, 1993*

Ark. Code Ann. § 11-9-101 set out expanded purposes of workers' compensation laws.

§ 11-9-102 was substantially amended and:

- Defined "compensable injury";
- Defined injury as compensable if caused by a specific incident and identifiable by time and place of occurrence;
- Allowed injuries not identified by specific incident and time and place of occurrence (**carpal tunnel syndrome, back or neck, hearing loss**) if proven by a preponderance of the evidence. Resultant condition compensable only if the injury was the major cause of the disability or treatment;
- Awarded permanent benefits if the compensable injury was the **major cause** of the disability or impairment;
- Restricted coverage of injury caused by alcohol or drug **intoxication**;
- Eliminated injuries caused by **horseplay**, except for innocent victims;
- Eliminated injuries from **recreational or social activities** for the employee's personal pleasure;
- Excluded injuries before employment began or after the employment relationship terminated;
- Allowed sole proprietors or partners not to be employees with an AWCC **Certificate of Non-Coverage**;
- Excluded subjective complaints of **pain** from "objective findings" in determining permanent impairment.

The act also amended many other workers' compensation statutes:

—§ 11-9-105 reinforced exclusive remedy doctrine.

—§ 11-9-106 established a fraud unit.

—§ 11-9-107 increased penalty against employers firing workers who file claims but also prohibited employees from filing court actions against employers for such conduct.

—§ 11-9-109 increased penalty for employers who make employees pay compensation premiums or contribute to safety program costs.

- § **11-9-113** limited mental injuries.
- § **11-9-114** eliminated heart attack unless the work was extraordinary or unusual in comparison to the regular work. Not compensable if caused by a pre-existing condition. Stress not considered.
- § **11-9-406** increased penalty for employers refusing to obtain workers' compensation coverage: The AWCC could enjoin employers from continuing employment; employer could be fined.
- § **11-9-410** changed third party liability and subrogation statute.
- § **11-9-411** added new section reducing payments to workers who received benefits under some other program and required claimants to furnish respondents with releases of subrogation.
- § **11-9-501** rounded off benefit to nearest whole dollar after January 1, 1994, and changed disability maximums on January 1, 1997, to 85% of the state AWW.
- § **11-9-503** added "extra-hazardous employer" to safety statute.
- § **11-9-505** increased rehabilitation benefits to 72 weeks and put restrictions on both the employer and employee.
- § **11-9-506** changed statute regarding unemployment benefits.
- §§ **11-9-508** and **-514** called for a managed medical care system with certified providers, peer review, and service utilization. Required rules for resolution of medical disputes; prohibited balance billing. Reinforced AWCC control over medical fees via Rule 30.
- § **11-9-519** allowed respondents to require PTD recipients to certify disability annually.
- § **11-9-522** required impairment rating guide by July 1, 1994; reduced compensation if worker on retirement or pension benefits;
- § **11-9-527** increased maximum funeral benefits to \$6,000.
- § **11-9-702** strengthened the statute of limitations.
- § **11-9-704(c)(3)** required strict construing of AWCC laws by administrative law judges, the commission and the courts.
- § **11-9-713** eliminated aging as a consideration.
- § **11-9-717** added section requiring all writings to be signed by an attorney or the unrepresented party.
- § **11-9-802** amended the payments section to include medical benefits, including a 36% penalty.
- § **11-9-805** amended provisions for joint petition settlements.
- § **11-9-813** set up deductibles for employers. **NOTE: Act 796 placed this statute in Ark. Code Ann. § 11-9-812, but other legislation used -812, and the Arkansas Code Revision**

Commission placed this legislation in Ark. Code Ann. § **11-9-813**. See **Act 372 of 1993** for Ark. Code Ann. § **11-9-812**).

—§ **11-9-1001**: Added a new section with instructions to AWCC judges, commissioners and any reviewing courts.

Act 860 of 1993 *effective April 2, 1993*

Amended Ark. Code Ann. § 21-1-104 to define “state employee” and say that no full-time employee in various state agencies, including the AWCC, would serve as an elected judge.

Act 862 of 1993 *effective July 1, 1993*

Required public school districts by July 1, 1993, to provide workers’ compensation coverage through private carriers or self-funding groups.

Act 1155 of 1993 *effective September 1, 1993*

Amended Ark. Code Ann. §§ 23-67-204 and -206, the Workers’ Compensation Plan, to promote competition and improve carrier performance.

Act 1185 of 1993

Added Ark. Code Ann. § **11-9-115** requiring workers’ compensation applicant to report **child support** obligations and requiring employer to report the application to the state Child Support Enforcement Unit.

Act 1269 of 1993 *effective April 2, 1993*

Added to the Assigned Risk Plan two statutes in Ark. Code Ann. §§ 23-67-211 and -212, instating coverage for contractors providing logging services to insureds.

Act 1318 of 1993 *effective April 20, 1993*

Repealed § **11-9-305(d)** transferring \$100,000 of the Workers’ Compensation Revolving Fund to the State Insurance Department.

1991

Act 561 of 1991 *effective July 1, 1991*

Repealed Ark. Code Ann. § **11-9-409** and placed administration of **assigned risk** employers under the jurisdiction of the Arkansas Insurance Department.

Act 651 of 1991 *effective July 15, 1991*

Added Ark. Code Ann. § **11-9-210(b)** setting up structured annuity contracts for the **Death and Permanent and Total Disability Trust Fund**.

Act 756 of 1991 *effective July 15, 1991*

Added to the workers' compensation laws §§ **11-9-901 – 11-9-912** setting up a **guaranty fund** for self-insured employers.

Act 786 of 1991 *effective July 15, 1991*

Repealed Ark. Code Ann. § **11-9-704(c)(5)**, which was a repeat of § **11-9-704(c)(2)**. Act also required **home builders** to provide proof of compensation coverage "if applicable."

Act 1060 of 1991

Added Ark. Code Ann. § **11-9-209** requiring AWCC annually to publish statistical data on compensation benefits paid to claimants, medical providers, and attorneys. Also added an Arkansas Code Revision Commission note to Ark. Code Ann. § **11-9-703** stating: "No monies appropriated by...any...act shall...fund preliminary conferences...other than in the

county where the accident occurred...or...as agreed by the parties."

Act 1123 of 1991 *effective July 1, 1991*

"Every rate service organization and...insurer which makes its own rates for workers' compensation...after receiving a written request...shall furnish to any insured affected...all pertinent information as to the rate."

Act 1143 of 1991 *effective July 15, 1991*

Created the **Employee Leasing Act** (Ark. Code Ann. §§ 23-92-301 – 23-92-315). Employer responsibilities, including the right of control, to be shared by the employee leasing firm and the recipient. Employee leasing firm to be deemed an employer of its leased employees and would ensure that all employees were covered by workers' compensation insurance by either the leasing firm or the client. **See Act 1308 of 1995. Entire Employee Leasing Act repealed in 2003 by Act 1750.**

Act 1167 of 1991 *effective July 15, 1991*

Amended marital property law to exclude benefits from workers' compensation claims when those benefits are for "permanent disability or future medical expenses."

Act 1229 of 1991 *effective July 15, 1991*

Amended Ark. Code Ann. § 16-22-304 regarding attorney liens, giving lawyers a lien upon clients' compromise, including proceedings before the WCC, adding that the commission "shall enforce the lien."

1989

Act 460 of 1989 Regular Session *effective July 2, 1989*

Amended Ark. Code Ann. 1987 § **11-9-804(b)**, changing **lump sum** payment calculations.

Act 821 of 1989 Regular Session

Amended Ark. Code Ann. § **11-9-404** by adding subsections (e) and (f).

Act 827 of 1989 Regular Session *effective March 22, 1989*

Amended Ark. Code Ann. 1987 §§ **11-9-303 (a)**, **11-9-304(a)**, **11-9-305 (a)(1)** and **11-9-306(d)** to provide a tax rate up to 3.25% to be collected from carriers, self-insured employers, and public employers from July 1, 1989, through June 30, 1999. Added § **11-9-308** directing funds derived from .25% tax to be used only for acquiring AWCC quarters. **Repealed by Act 151 of 1989 First Extraordinary Session.**

Act 151 of 1989 First Extraordinary Session

Repealed Act 827 of 1989 Regular Session.

1987

Act 206 of 1987 Regular Session *effective March 13, 1987*

Amended Ark. Stat. Ann. 1947 § 81-1365(e) giving city and county self-funded workers' compensation groups some options regarding **excess insurance**. Certain provisions *effective July 1, 1987* [Ark. Code Ann. 1987 §§ **14-26-104(b)(4)(B)**, **14-60-104(b)(4)(B)**]

Act 524 of 1987 Regular Session *effective August 1, 1987*

Amended Ark. Stat. Ann. 1947 § 81-1321 to withhold **child support** from compensation benefits; set maximums to be withheld; cited courts through which the amounts would be paid; defined "child support payments." [Ark. Code Ann. 1987 § **11-9-110**].

Act 806 of 1987 Regular Session *effective April 8, 1987*

Amended Ark. Stat. Ann. 1947 §§ 81-1336(a)(2) and 81-1336(a)(3)(c) to exempt cities, counties and the state from posting bonds or securities as prerequisite to self-insured status. In effect only days, **Act 806 was superseded by Act 980 of 1987.**

Act 980 of 1987 Regular Session *effective April 14, 1987*

Amended Ark. Stat. Ann. 1947 § 81-1336 to define standards of financial statements as a condition for obtaining coverage by membership in a **self-insured** workers' compensation group. **Superseded Act 806** (Ark. Code Ann. 1987 § **11-9-404**).

Act 1015 of 1987 2nd Extraordinary Session *effective April 14, 1987*

Reenacted **Act 1227 of 1975 Extended Session**. Amended Ark. Stat. Ann. 1947 §§ 81-1301, 1302, 1305, 1310, 1314, 1315, 1317, 1325, 1332 and 1335 (codified as Ark. Code Ann. 1987 §§ **11-9-101, 11-9-102, 11-9-401, 11-9-501 – 507, 11-9-519 – 526, 11-9-601 – 603, 11-9-527, 11-9-701, 11-9-710 – 712, 11-9-715, 11-9-106, 11-9-107**).

Act 10 of 1986

Act 10 of 1986 Extraordinary Session *effective July 1, 1986*

–Amended Ark. Stat. Ann.. 1947 §81-1302, adding Subsection (r) to define state **AWW**. Codified Ark. Code Ann. 1987 § **11-9-102 (18)**.

–Amended Ark. Stat. Ann.. 1947 § 81-1310(a) to raise **minimum** weekly benefits to \$20. Also raised maximum weekly benefits for disability (other than permanent partial) and compensation to surviving dependents of a deceased employee from:

- \$154 weekly to maximum of \$175 from July 1, 1986, through June 30, 1987;
- \$175 to a maximum of \$189 from July 1, 1987, through December 31, 1988;
- January 1, 1989, through December 31, 1989, from \$189 maximum to 66 2/3% of the state AWW; and
- On and after January 1, 1990, 70% of the state AWW. Ark. Code Ann. 1987 § **11-9-501(b)**.

–Amended Ark. Stat. Ann.. 1947 § 81-1310(a)(3) for PPD: minimum \$20 weekly with rate being figured on 66 2/3% of employee's AWW up to a maximum of \$154; but, if employee's total disability rate would be \$205.35 per week or greater, the maximum **PPD rate** would be 75% of the employee's total disability rate. [Ark. Code Ann. 1987 § **11-9-501(d)**].

–Amended Ark. Stat. Ann.. 1947 § 81-1310(d), increasing the penalty for **safety violations** from 15% to 25% and awarding the penalty to the claimant instead of the **Second Injury Fund**. [Ark. Code Ann. 1987 § **11-9-503**].

–Amended Ark. Stat. Ann. 1947 § 81-1310, adding Subsection (h) to authorize the AWCC to allocate funds for a special project to improve **workplace safety** in the State. [Ark. Code Ann. 1987 § **11-9-507**].

–Amended Ark. Stat. Ann.. 1947 § 81-1311, authorizing the AWCC to establish rules, regulations, and maximum fees for **medical services**. [Ark. Code Ann. 1987 § **11-9-517**].

–Amended Ark. Stat. Ann.. 1947 § 81-1313(c),(d), increasing number of weeks for permanent partial disability and outlining specifications for PPD in excess of the

percentage of **physical impairment**. [Ark. Code Ann. 1987 §§ **11-9-521, 11-9-522**].

–Amended Ark. Stat. Ann.. 1947 § 81-1315(a), increasing **funeral expenses** to a maximum of \$3,000. [Ark. Code Ann. 1987 § **11-9-527(a)**].

–Amended Ark. Stat. Ann. 1947 § 81-1317(a) on **notification requirements** employee must follow. [Ark. Code Ann. 1987 § **11-9-701**].

–Amended Ark. Stat. Ann. 1947 § 81-1318(a) adding new Subsection (4) that authorized dismissal of claim if no hearing has been requested within six months after filing. [Ark. Code Ann. 1987 § **11-9-702(a)(11)**].

–Amended Ark. Stat. Ann. 1947 § 81-1319(e) [codified as Ark. Code Ann. 1987 § **11-9-802(b)**], increasing penalty to 18% for nonpayment of compensation installment within 15 days after it becomes due; also

–Increased discount for **lump sum** payment to 10%, compounded annually. [Ark. Stat. Ann. 1947 § 81-1319(k), codified as Ark. Code Ann. 1987 § **11-9-804(a)(1)**].

–Amended Ark. Stat. Ann. 1947 § 81-1323(b),(c), specifying that the issues in a case must be stated clearly at the time a hearing is requested and outlining procedures to be followed at the **hearing before the commission**. [Ark. Code Ann. 1987 §**11-9-704(b)(2),(c)(4)**].

–Added Ark. Stat. Ann. 1947 § 81-1323.1 to authorize the commission to establish and implement **preliminary conference procedures**. [Ark. Code Ann. 1987 § **11-9-703**].

–Amended Ark. Stat. Ann. 1947 § 81-1332(a),(b) and added subsections (c), (d), (e) and (f) specifying amounts and sources of **attorney's fees**. [Ark. Code Ann. 1987 § **11-9-715**]

–Amended Ark. Stat. Ann. 1947 § 81-1347(f), instructing commission to give 45 days' notice of its intended action in regard to **rules, regulations or forms**. [Ark. Code Ann. 1987 § **11-9-205(a)(2),(3),(4)**].

1985

Act 842 of 1985 *effective April 4, 1985*

Amended Ark. Stat. Ann.. 1947 § 81-1315, codified as Ark. Code Ann. 1987 § **11-9-527(a)**, to increase **funeral expenses** from a maximum of \$750 to \$1,500.

Act 866 of 1985 *effective July 1, 1985*

Created Ark. Stat. Ann. 1947 §§ 81-1364 – 81-1367 [codified as Ark. Code Ann. 1987 §§ **14-26-101 – 104, 14-60-101 – 105**] requiring municipalities and counties to provide their own workers' compensation coverage (handled through June 30, 1985, by the Public Employee Claims Division of the State Insurance Department). **See Act 34 of 1985 First Extraordinary Session for emergency revision of this act's provisions for cities and counties.**

Act 34 of 1985 First Extraordinary Session *effective June 26, 1985*

Amended Ark. Stat. Ann.. 1947 § 81-1365 as created by **Act 866 of 1985**, exempting participating self-funded **groups of municipalities and/or counties** from most regulations of the Workers' Compensation Commission in regard to self-insured groups or providers. [Codified as Ark. Code Ann. 1987 §§ **14-26-104(b)(4), 14-60-104(b)(4)**].

Act 43 of 1985 First Extraordinary Session *effective July 11, 1985*

Amended Ark. Stat. Ann. 1947 § 81-1365, requiring self-funded groups of municipalities and/or counties to be subject to AWCC regulations applicable to self-insured groups or providers with the exception of indemnity agreements binding them jointly and severally. [Ark. Code Ann. 1987 §§ 14-26-104(b)(4)(A), 14-60-104(b)(4)(A)].

1983

Act 393 of 1983

Created in Ark. Stat. Ann. 1947 § 81-1348 [Ark. Code Ann. 1987 § **11-9-301**] a Workers' Compensation Fund, a Second Injury Trust Fund and a Death and PTD Trust Fund to be administered by the AWCC; allocated taxes among those funds, and provided for **taxation**.

Act 444 of 1983

Defined "medical services" in ACA § **11-9-102(17)**; amended Ark. Stat. Ann. 1947 § 81-1311 [ACA § **11-9-514(a)(2)**] providing for a claimant to be treated by a **chiropractic physician** under certain circumstances.

Act 720 of 1983

Specified that compensation payments to be made by check or state warrant [ACA § **11-9-801(a)**].

Act 769 of 1983

Amended various subsections for the **assignment of risks** in ACA § **11-9-409**.

1981

Act 72 of 1981 *effective February 16, 1981*

Amended **Act 994 of 1979** to authorize the AWCC to determine the amount to be posted as a surety bond for **group self-insurers** [Ark. Code Ann. § **11-9-404(a)(3)(C)(i)**].

Act 290 of 1981 *effective March 3, 1981*

Among its provisions:

–“Widowers” to include only the decedent's legal **husband**, living with or dependent for support upon her at the time of her death. Removed "and was incapacitated to support himself". [Ark. Stat. Ann. 1947 §81-1302(m), Ark. Code Ann. 1987 § **11-9-102(13)**].

–*Effective March 1, 1981*, raised maximum weekly benefits to \$140 and ceiling to \$63,000.

–*Effective March 1, 1982*, raised weekly maximum to \$154 and ceiling to \$69,300.

–Provided for review after 40 weeks to determine the necessity of the payment of additional TTD and every 13 weeks thereafter [as codified Ark. Code Ann. 1987 § **11-9-501(c)**].

–*Effective March 1, 1981*, increased the employer or insurance carrier's total liability for weekly benefits from \$50,000 to \$75,000 [Ark. Stat. Ann. 1947 § 81-1310(c)(2), Ark. Code Ann. 1987 § **11-9-502(b)(1)**].

–Amended Ark. Stat. Ann. 1947 § 81-1310(f) to provide for a six-week period for the claimants to be paid at their regular weekly rates within which to explore a program of **rehabilitation**. [Ark. Code Ann. 1987 § **11-9-505(d)**].

–Provided that no compensation for temporary total or PTD is payable to injured

employees when they receive **unemployment insurance** under the laws of any state (Ark. Code Ann. 1987 § **11-9-506**).

–Provided for selection of a **second physician** by the commission irrespective of the recommendations of the parties and provided maximum of six months for authorized medical and related expenses, unless waived or approved by the AWCC, in cases of no lost time and after an employee returns to work. Also provided for \$10,000 aggregate for medical and related expenses under the two situations, supra. [Ark. Code Ann. 1987 §§ **11-9-509, 11-9-514(a)(2)**].

–Amended Ark. Stat. Ann. 1947 § 81-1313(i) [Ark. Code Ann. 1987 § **11-9-525(b)**] to provide for a comprehensive **Second Injury Fund** commencing January 1, 1981.

–Amended Ark. Stat. Ann. 1947 § 81-1319(n) [Ark. Code Ann. 1987 § **11-9-806**] that in cases of dispute as to **which party should pay**, benefits to be paid on an equal basis subject to reimbursement with interest at the legal rate.

–Amended Ark. Stat. Ann. 1947 § 81-1323(c) [Ark. Code Ann. 1987 § **11-9-704(c)(2)**] to establish burden of proof as a **preponderance of the evidence**.

–Added Subsection (c) to Ark. Stat. Ann. 1947 § 81-1327 [Ark. Code Ann. 1987 § **11-9-705(c)**] to make statutory one of the Rules of the Commission, **Rule 14**.

–Provided for the payment of attorney fees from the **Second Injury Fund** in controverted cases [Ark. Code Ann. 1987 § **11-9-715(a)(2)(A)**]. Also provided a procedure for payment of claims from the fund and provided for no reverting of responsibility to the employer or carrier on or after *July 1, 1983* (Ark. Code Ann. 1987 § **11-9-301**).

Act 631 of 1981 *effective March 23, 1981*

Extended the time for filing **cross-appeals** in cases being appealed from an administrative law judge to the Full Commission and from the Full Commission to the Court of Appeals [Ark. Code Ann. 1987 § **11-9-711**]; conformed Ark. Stat. Ann. 1947 § 81-1320(a) [Ark. Code Ann. 1987 § **11-9-108(b)(2)**] to Ark. Stat. Ann. 1947 § 81-1302(c)(1) [Ark. Code Ann. 1987 § **11-9-102(3)(A)**] concerning the **number of employees** (three) required for coverage; and provided in Ark. Stat. Ann. 1947 § 81-1332.1 [Ark. Code Ann. 1987 § **11-9-716**] that **lump sum attorney fees**, when approved, would be discounted at the same rate specified in Ark. Code Ann. 1987 § **11-9-804**, for lump sum payments of compensation benefits.

1979

Act 108 of 1979 *effective July 20, 1979*

Amended Ark. Stat. Ann. 1947 §81-1318(d)[Ark. Code Ann. 1987 § **11-9-702(d)**] to toll the **statute of limitations** if the failure to file claim is induced by fraud.

Act 119 of 1979

Amended Ark. Stat. Ann. 1947 §81-1302(b) [Ark. Code Ann. 1987 § **11-9-102(2)**] to include **sole proprietors and partners** in the definition of the term "employee".

Act 215 of 1979 *effective March 1, 1979*

Authorized commission to approve lump sum **attorney fees** [Ark. Stat. Ann. 1947 §81-1332.1, Ark. Code Ann. 1987 § **11-9-716**].

Act 252 of 1979 *effective March 2, 1979*

Provided for appeals from the Workers' Compensation Commission to the Court of Appeals [Ark. Stat. Ann. § 81-1325(b), Ark. Code Ann. 1987 § 11-9-711(b)].

Act 253 of 1979 *effective initially on March 2, 1979*

Effective March 1, 1979, raised maximum weekly compensation to \$112 and the compensation ceiling to \$50,400. *Effective March 1, 1980*, raised maximum weekly benefits to \$126 and compensation ceiling to \$56,700. *Effective January 1, 1981*, provided for a Comprehensive **Second Injury Fund**. Provided for appeals from the Workers' Compensation Commission to the Court of Appeals. **See Act 793 of 1979**.

Act 597 of 1979 *effective July 20, 1979*

Provided for judicial review of Arkansas Workers' Compensation Commission decisions in state, county, municipal, and school district employee claims.

Act 663 of 1979 *effective March 29, 1979*

Provided that when a commissioner is disqualified to hear a particular matter, the governor will appoint a special member to participate and hear the particular matter [Ark. Stat. Ann. 1947 §81-1342.1, Ark. Code Ann. 1987 § 11-9-201(c)(1)].

Act 793 of 1979 *effective April 6, 1979*

Provided that appeals from the commission on and after the effective date of **Act 253 of 1979** to July 1, 1979, would be lodged in the circuit court of the county where the accident occurred.

Act 809 of 1979 *effective July 1, 1979*

Transferred Public Employee Claims Division from the Arkansas Workers' Compensation Commission to the state Insurance Department.

Act 822 of 1979 *effective April 10, 1979*

Beginning July 1, 1979, provided for **legal fees** on appeals from the AWCC to the Court of Appeals [Ark. Stat. Ann. 1947 §81-1332(b), Ark. Code Ann. 1987 § 11-9-715(b)].

Act 994 of 1979 *effective July 20, 1979*

Permitted two or more employers to pool their workers' compensation liabilities for the purpose of qualifying for **self-insurance** [Ark. Stat. Ann. 1947 §81-1336(a)(3), Ann. Code Ann. 1987 § 11-9-404(a)(3)]. **See Act 72 of 1981**.

1975

Act 174 of 1975 *effective February 18, 1975*

Allowed employers to be placed in **assigned risk pool** if rejected by one insurance carrier [Ark. Stat. Ann. 1947 §81-1309(b), codified as Ark. Code. Ann. 1987 § 11-9-409(c)(1)].

Act 288 of 1975 *effective July 9, 1975*

Changed time to see a physician for **hernia** from 48 hours to 72 hours [Ark. Stat. Ann. 1947 §81-1313(e)(5), codified as Ark. Code. Ann. 1987 § 11-9-523(a)(5)].

Act 330 of 1975 *effective February 18, 1975*

Changed six-month provision for medical treatment and authorized treatment by a duly accredited faith practitioner [Ark. Stat. Ann. 1947 §81-1311, codified as Ark. Code. Ann. 1987 § 11-9-508(a), § 11-9-515(a)].

Act 655 of 1975 *effective March 28, 1975*

Changed title of workers' compensation referee to **administrative law judge**.

Act 1227 of 1975 Extended Session *effective initially on February 13, 1976*

Raised maximum weekly compensation to \$77 and compensation ceiling to \$34,650 (*effective March 1, 1976*). Raised weekly maximum to \$84 and compensation ceiling to \$37,800 (*effective March 1, 1977*). Raised weekly maximum to \$87.50 and compensation ceiling to \$39,375 (*effective March 1, 1978*).

1973

Act 158 of 1973 *effective July 24, 1973*

Changed notification for **cancellation** of workers' compensation policy from 15 to 30 days [Ark. Stat. Ann. 1947 § 81-1338(b), Ark. Code Ann. § 11-9-408(b)].

Act 221 of 1973 *effective April 1, 1973*

Raised weekly maximum compensation to \$63 and ceiling to \$29,000. *Effective July 1, 1974*, raised maximum weekly benefit to \$66.50. The ceiling remained at \$29,000.

Act 469 of 1973 *effective July 1, 1974*

Brought **municipal employees** under the workers' compensation laws.

Act 470 of 1973 *effective July 1, 1974*

Brought **county employees** under the workers' compensation laws.

1971

Act 162 of 1971 *effective February 26, 1971*

Permitted officers of a **corporation** to exclude themselves from the law [Ark. Stat. Ann. 1947 § 81-1320(a), codified as Ark. Code Ann. 1987 § 11-9-108(b)(1)].

Act 223 of 1971 *effective July 1, 1971*

Brought **public school employees** under the workers' compensation laws.

1939 - 1968

Initiated Act Number 1 of 1968 *effective December 5, 1968*

Major provisions amending Ark. Stat. Ann. 81-1304 through 81-1349:

- Decreased to two weeks the disability period necessary before obtaining compensation for the first week of disability;
- Increased maximum weekly benefits to \$49;
- Increased maximum benefits to \$19,500;
- Removed maximum on permanent total disability or death;
- Penalized employers for injuries or deaths of minors illegally employed and for injuries or deaths of employees as a result of employers not being in compliance of safety laws;
- Provided for vocational rehabilitation;
- Amended compensation for facial or head disfigurement to delete requirement that such compensation be based on employee's future earning capacity;
- Increased funeral benefits to a maximum of \$750;

- Started the time for filing a claim from the date of injury rather than the date of accident;
- Extended filing time for death to two years;
- Removed time limitations to file for additional compensation in the form of medical apparatus; and
- Made employer guilty of a misdemeanor for discrimination against employees for claiming benefits.

1967

Act 501 of 1967 *effective June 30, 1967*

Required Circuit Court to act on an appeal from Commission within 60 days or else the order or award of commission would be deemed affirmed [Ark. Stat. Ann. 1947 §81-1325(b)]. **Declared unconstitutional on December 2, 1968.**

1965

Act 54 of 1965 Extraordinary Session *effective June 10, 1965*

Raised weekly maximum compensation to \$38.50 and maximum compensation ceiling to \$14,500 and removed the \$500 limit for medical on correction of **hernias**.

1963

Act 521 of 1963

Amended statutes pertaining to Workers' Compensation Fund (Ark. Code Ann. §§ 19-10-402 – 19-10-404).

Act 539 OF 1963 *effective June 13, 1963*

Changed Ark. Stat. Ann. 1947 §81-1314(a)(7) [Ark. Code. Ann. 1987 § 11-9-601(g)(2)] for filing claims of exposure to x-rays, radioactive substances, or ionizing radiation.

1961

Act 479 of 1961 *effective March 16, 1961*

Changed maximum **funeral benefit** from \$250 to \$500.

1959

Act 167 of 1959 *effective March 4, 1959*

Changed due date for compensation from 14th day to 15th day. [Ark. Stat. Ann. 1947 § 81-1319(f), codified as Ark. Code. Ann. 1987 § 11-9-802(c)].

Act 144 of 1959 *effective June 11, 1959*

Changed Ark. Stat. Ann. 1947 § 81-1332 (Ark. Code. Ann. 1987 § 11-9-715) in regard to **attorney fees** and total amount of medical for **hernias** (Ark. Stat. Ann. 1947 § 81-1313(e), Ark. Code. Ann. 1987 § 11-9-523) from \$250 to \$500.

Act 156 of 1959

Made civil defense workers state employees for purpose of workers' compensation.
Repealed.

1956

Initiated Act No. 1 of 1956 *effective December 6, 1956*

Raised maximum weekly compensation to \$35 and maximum compensation to \$12,500.

1951

Act 373 of 1951

Amended statutes pertaining to state employees and workers' compensation, Ark. Code Ann. §§ 19-10-401 – 19-10-406.

1949

Act 462 of 1949 effective March 28, 1949

Brought state employees under workers' compensation laws. Codified in Ark. Code Ann. §§ 19-10-204 – 19-10-210 and 19-10-401 – 19-10-406. Statutes amended by **Act 373 of 1951** and **Act 521 of 1963**.

1948

Initiated Act Number 4 effective December 3, 1948

Adopted by voters in the general election held November 2, 1948, by a vote of 149,483 For and 61,884 Against.

- Reenacted and amended original Arkansas workers' compensation law of 1939.
- Raised weekly benefit maximum to \$25 and compensation ceiling to \$8,000. Ark. Stat. Ann. 1947 § 81-1301 et seq. (codified as Ark. Code Ann. 1987 § **11-9-101 et seq.**)
- Expanded method of determining employees' **AWW**.
- Substituted "**clear and convincing proof**" for "conclusive proof" in PTD cases.
- Nonscheduled PPD apportioned to the **body as a whole**, with the body having a value of **450 weeks**.
- The term "**Second Injury Fund**" in Arkansas workers' compensation made its first appearance, although a fund for second injuries had been created in 1939.
- Maximums for **asbestosis and silicosis** raised from \$2,000 to \$2,500.
- Eliminated appeals in **joint petition** case orders.
- Reduced lump sum **widow's benefits** from 104 weeks to 52 weeks.
- Lengthened employees' **time to file** claims from one year to two years and **time to appeal** from 14 to 30 days.
- Allowed **partial dependency** benefits.
- Medical evidence** language amended to say "verified medical reports...shall be accorded such weight as may be warranted from all...the evidence of the case."
- Eliminated payments from the Workers' Compensation Fund to the Department of Health and Industrial Hygiene, which was authorized in 1939.

1941

Act 121 of 1941 effective March 6, 1941

Amended sections of **Act 319 of 1939**. Among other provisions, it removed a statute allowing employees to waive the exemption of their employers from workers' compensation requirements, "thereby causing serious labor disputes, riots and other public disturbances."

1939

Act 319 of 1939 *effective December 5, 1940*

Original workers' compensation law, containing 50 sections. Maximum compensation \$20 per week with a compensation ceiling of \$7,000. Among many other provisions:

- Legal fees not to exceed 25% of first \$1,000, plus 10% of amounts more than \$1,000.
- Employers with five or more employees required to obtain workers' compensation insurance.
- Employers not required to have the coverage allowed to waive the exclusion.
- Employees also allowed to waive their employers' exemption and bring them under the workers' compensation laws. **See Act 121 of 1941.**
- Carriers authorized to inspect client operations to measure its hazards, then make recommendations for safety and ensure that insurance rates adequate to cover risks. This provision dropped when state workers' compensation laws were revised by **Initiated Act 4 of 1948.**
- Employers allowed to appeal to the AWCC its carrier's premium charges. This provision dropped when workers' compensation laws were revised by **Initiated Act 4 of 1948.**
- "In the absence of conclusive proof to the contrary," loss of both hands, both arms, both legs, both eyes, or any two of those members would constitute permanent total disability. **See Initiated Act 4 of 1948.**
- Employees who suffer second injuries included in a fund created to pay for subsequent injuries. **See Initiated Act 4 of 1948.**
- A Medical Board was instructed to assist AWCC in occupational disease cases. No mention was made of such board in **Initiated Act 4 of 1948.**
- Authorized compensation payments to injured employees semi-monthly and allowed workers one year to file a claim for benefits.
- Uncontroverted, verified medical reports considered prima facie evidence of fact. This statute amended by **Initiated Act 4 of 1948.**
- Appeals from joint petition settlements were allowed until **Initiated Act 4 of 1948.**
- State Insurance Commissioner directed to regulate the workers' compensation market, an instruction deleted by **Initiated Act 4 of 1948.**
- Third party settlements were authorized.
- Department of Health created and paid for from the Workers' Compensation Fund, a payment provision continued until **Initiated Act 4 of 1948.**

1938

The 26th Amendment to the Constitution of the State of Arkansas

Adopted in the general election, *November 8, 1938*

Authorized workers' compensation laws in Arkansas by a vote of 77,028 For and 45,966 Against. It was submitted to the voters by Initiative Petition:

CONSTITUTION OF ARKANSAS

ARTICLE 5

Legislative Department

Section 32. Workmen's Compensation Laws -- Actions for personal injuries.

The General Assembly shall have power to enact laws prescribing the amount of compensation to be paid by employers for injuries to or death of employees, and to whom said payment shall be made. It shall have power to prove the means, methods, and forum for adjudicating claims arising under said laws, and for securing payment of same. Provided, that otherwise no law shall be enacted limiting the amount to be recovered for injuries resulting in death or for injuries to persons or property; and in case of death from such injuries the right of action shall survive, and the General Assembly shall prescribe for whose benefit such action shall be prosecuted.

CODE OF LAW

Arkansas statutes are codified in a Code of Laws. To find workers' compensation regulations online (as of 01-20-06):

- Scroll to the bottom of AWCC's home page.
- Click [Visit The Arkansas State Home Page](#).
- Choose [All Online Services](#).
- Scroll to letter **C**.
- In the **C** section, select **Code, Arkansas - Laws and Statutes**. The Arkansas Code page appears.
- Put cursor on [Arkansas Code](#) at bottom of page. It turns **green**. Click. The ARKLEG page appears with a split gray/white screen.
- Directly above the gray area are two tabs. Choose the tab best suited for your computer as follows:
 - A. **HTML**
 - i. Click on the HTML tab. There should be a folder named Arkansas Code (non annotated). Click on the folder icon. The Titles in the Arkansas Code are presented.
 - ii. Go to Title 11, Labor and Industrial Relations. Click on the folder icon. The Chapters of Title 11 appear.
 - iii. Click on the folder icon next to Chapter 9, Workers' Compensation. This will bring up Subchapters 1-10.
 - iv. Click on the folder icon next to the subchapter wanted (i.e. Subchapter 8 - Payment). The statutes will now be listed in the gray area.
 - v. In the white section, click Statutes Only.
 - vi. Above the white section, click on the word "Document".
 - vii. Click on the statute you seek (i.e. 11-9-807). The statute should now be in the white section.
 - B. **JAVA**
 - i. Click on the JAVA tab. There should be a document named Arkansas Code (non annotated). Click on the plus (+) next to the document icon. This will bring up Titles 1-28.
 - ii. Go to Title 11, Labor and Industrial Relations. Click the plus (+) next to the document icon. This will bring up Chapters 1-14.
 - iii. Click the plus (+) next to Chapter 9, Workers' Compensation. This will bring up Subchapters 1-10.
 - iv. Click the plus (+) next to the document icon of the subchapter you want (i.e. Subchapter 8 - Payment). The statutes are listed in the gray area.

- v. In the white section, choose Statutes Only.
- vi. Above the white section, select the word "Document".
- vii. Click on the statute needed (i.e. 11-9-807). The statute should now be in the white section.

Those wanting copies of acts may contact these state sources:

-**Secretary of State**, Room 256, State Capitol, Capitol Grounds, Little Rock, AR 72201; telephone 501-682-1010;

-**Elections Division**, Room 026, State Capitol, Capitol Grounds, Little Rock 72201; telephone 501-682-3478;

-**Arkansas General Assembly**, where the acts since 1987 are available electronically. Go to www.arkleg.state.ar.us and click the Acts. Select "Full Text of Act," then enter the act number.