

50-STATE COVID-19 WORKERS' COMPENSATION CHART

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As you use this Summary, please remember the following:

The summary document is intended for general business information purposes only. It is not a complete or all-inclusive explanation, and it should not be construed as legal advice on any specific facts or circumstances. Numerous regulations, interpretations, and other authorities must be evaluated in applying these principles. Due to COVID-19, laws and regulations are changing rapidly and therefore, the information contained in this document is accurate as of the date and time noted above.

Businesses are urged to seek legal advice concerning specific situations and legal questions.

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| ALABAMA | A disease arising out of and in the course of employment, ... which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer. Ala. Code § 25-5-110 | On May 8, 2020, the Governor of Alabama issued a proclamation providing liability protection for any business, health care provider, or other covered entity for damage to property in any way arising from any act or omission related to, or in connection with, COVID-19 transmission or a covered COVID-19 response activity, unless a claimant shows by clear and convincing evidence that the claimant's alleged death, injury or damage was caused by the entity's wanton, reckless, willful, or intentional misconduct. | This law may not have any immediate impact on the workers' compensation analysis but may shield employers from potential tort claims from non-employees arising out of COVID-19 exposure. | https://governor.alabama.gov/assets/2020/05/2020-05-08-8th-Supplemental-SOE-COVID-19.pdf |
| ALASKA | "[I]njury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection that arises naturally out of the employment or that naturally or unavoidably results from an accidental injury. Alaska. Stat. § 23.30.395. | On April 9, 2020, the Governor of Alaska signed a new law that establishes a presumption of compensability for emergency response and health care workers who contract COVID-19 during the public health disaster declared on March 11, 2020 in the course of their employment and receive: (1) a COVID-19 diagnosis by a physician; (2) a presumptive positive COVID-19 test result; or (3) a laboratory-confirmed COVID-19 diagnosis. | This new law shifts the burden of proof onto those employers of emergency response and medical workers to prove the employee did not contract COVID-19 in the course of employment. The law applies retroactively to March 11, 2020. | http://www.akleg.gov/PDF/31/Bills/SB0241Z.PDF |
| ARIZONA | An occupational disease that is due to causes and conditions characteristic of and peculiar to a particular trade, occupation, process or employment, and not the ordinary diseases to which the general public is exposed, | On May 14, 2020, the Industrial Commission of Arizona issued a substantive policy statement stating that, "Workers' compensation insurance carriers, self-insured employers, the Special Fund, and | Insurance carriers and self-insured employers must evaluate claims based on the listed factors in good faith rather than implementing | Substantive Policy Statement: http://r20.rs6.net/t.n.jsp?f=001tRpo73TH3XC0SJeZzDooO6x-MV7NcECi47ms4tiOuuTZbsa8bVJru |

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| | <p>and subject to § 23-901.01 § 23-1105. Ariz. Rev. Stat. Ann. § 23-901</p> | <p>authorized claims processing representatives administering Arizona workers' compensation claims may not categorically deny COVID-19 claims. All claims must be reviewed and investigated in good faith. Claim denials related to COVID-19, like any claim denial, must be 'well-grounded in fact' and 'warranted by existing law' (or based upon a good faith argument for the extension, modification, or reversal of existing law)."</p> <p>The Industrial Commission issued an announcement recommending the following factors be considered in evaluating COVID-19 workers' compensation claims: The nature of the employment and the risk of contracting COVID-19; Whether an identifiable exposure occurred at work; Whether any identifiable exposure occurred outside of work; The timing between an identifiable exposure and the development of COVID-19 symptoms; and the reliability of medical or other evidence that the work-related exposure caused the disease.</p> | <p>blanket policies for denying any COVID-19 claims.</p> | <p>Nj7V9FJaKJ1_G0YOcmqBY8rkf2XyY3u-gheN2ZMeuHnO OvpvGPIKeGAfHc wAez3d-2wldPsrWYwv1lkyhZID0n9N-Nt1vRa_fHkjdre0pNfGpiiBcX0gqIDLNvfY7pNk_wiUSuIHkd2o3L5a3YLZrb-FITY2OYZQiybQwJiMRReGj9CHbFTZfm6b5HqmAAIKMQ==&c=&ch=</p> <p>Announcement Re. Claims Handling: https://www.azica.gov/sites/default/files/COVID%20SPS.pdf</p> |
| <p>ARKANSAS</p> | <p>(e)(1)(A) "Occupational disease", as used in this chapter, unless the context otherwise requires, means any disease that results in disability or death and arises out of and in the course of the occupation or employment of the employee or naturally follows or unavoidably results from an injury as that term is defined in this chapter. (B) However, a causal connection between the occupation or employment and the occupational disease must be established by a preponderance of the evidence. (2) No compensation shall be payable for any contagious or infectious disease unless contracted in the course of employment in or immediate connection with a hospital or sanitorium in which persons</p> | <p>On April 13, 2020, Governor Hutchinson issued an executive order suspending provisions of Ark. Code Ann. § 11-9-601, thus easing the burden of proof for first responders and front-line healthcare workers who contract COVID-19 on the job. This decreased burden will continue so long as the state of emergency is in effect or until the issuance of another executive order.</p> <p>On April 21, 2020, Governor Hutchinson issued a second executive order correcting the code sections referenced in the initial order and expanding coverage to Arkansas National Guard Soldiers and Airmen on state active duty. The second order additionally defines who may qualify as "first responders" and "front-line healthcare workers" to whom the order applies.</p> | <p>This new law provides that employees who fit within the categories covered by these orders have a lowered burden of proof, although not a presumption, regarding whether they contracted COVID-19 on the job.</p> | <p>April 13, 2020 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-19_.pdf</p> <p>April 21, 2020 Executive Order: https://governor.arkansas.gov/images/uploads/executiveOrders/EO_20-22_.pdf</p> |

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| | <p>suffering from that disease are cared for or treated. (3) No compensation shall be payable for any ordinary disease of life to which the general public is exposed.</p> <p>Ark. Code Ann. § 11-9-601</p> | | | |
| CALIFORNIA | <p>“Injury” includes any injury or disease arising out of the employment, including injuries to artificial members, dentures, hearing aids, eyeglasses and medical braces of all types; provided, however, that eyeglasses and hearing aids will not be replaced, repaired, or otherwise compensated for, unless injury to them is incident to an injury causing disability.</p> <p>Cal. Lab. Code § 3208</p> | <p>California’s governor issued an Executive Order on May 6, 2020 that presumes most workers who contract COVID-19 after being in the workplace are entitled to workers’ compensation benefits. This order is much broader than similar legislation in other states and is not restricted to front-line or essential workers.</p> | <p>Under the existing California workers’ compensation system, employees need to present some medical evidence that their illness or injury was related to work in order to qualify for benefits. To meet that important threshold, they need to establish some reasonable factual basis for asserting that the workplace caused their illness or injury.</p> <p>Under the new Executive Order, if any “covered worker” contracts COVID-19, it would be automatically “presumed” to be work-related without the employee having to provide any further proof. Although this presumption is rebuttable – meaning you can controvert this position with other evidence – it is likely to be a high burden for employers to meet.</p> | <p>https://www.gov.ca.gov/wp-content/uploads/2020/05/5.6.20-EO-N-62-20-text.pdf</p> |
| COLORADO | <p>(14) “Occupational disease” means a disease which results directly from the employment or the conditions under which work was performed, which can be seen to have followed as a natural incident of the work and as a result of the</p> | <p>None to date.</p> | <p>Not applicable.</p> | <p>Not applicable.</p> |

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| | <p>exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as a proximate cause and which does not come from a hazard to which the worker would have been equally exposed outside of the employment.</p> <p>Colo. Rev. Stat. Ann. § 8-40-201</p> | | | |
| CONNECTICUT | <p>(15) "Occupational disease" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such and includes any disease due to or attributable to exposure to or contact with any radioactive material by an employee in the course of his employment.</p> <p>Conn. Gen. Stat. Ann. § 31-275 (West)</p> | None to date. | Not applicable. | Not applicable. |
| DELAWARE | <p>(4) "Compensable occupational diseases" includes all occupational diseases arising out of and in the course of employment only when the exposure stated in connection therewith has occurred during employment.</p> <p>(16) "Injury" and "personal injury" mean violence to the physical structure of the body, such disease or infection as naturally results directly therefrom when reasonably treated and compensable occupational diseases and compensable ionizing radiation injuries arising out of and in the course of employment.</p> <p>Del. Code Ann. tit. 19, § 2301</p> | None to date. | Not applicable. | Not applicable. |
| DISTRICT OF COLUMBIA | <p>(12) "Injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as</p> | None to date. | Not applicable. | Not applicable. |

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| | <p>naturally or unavoidably results from such accidental injury, and includes an injury caused by the willful act of third persons directed against an employee because of his employment.</p> <p>D.C. Code Ann. § 32-1501</p> | | | |
| FLORIDA | <p>(2) Whenever used in this section the term “occupational disease” shall be construed to mean only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment, and to exclude all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public. “Occupational disease” means only a disease for which there are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.</p> <p>Fla. Stat. Ann. § 440.151 (West)</p> | <p>On April 6, 2020, the Florida Office of Insurance Regulation issued an informational memorandum “reminding” employers and insurers that first responders, health care workers, and others that contract COVID-19 due to work-related exposure are eligible for workers’ compensation benefits under Florida law.</p> | <p>This memorandum does not change existing law, but rather serves as a notice to employers and insurers that they are expected to accept COVID-19 claims which otherwise meet the state’s legal requirements.</p> | <p>https://www.florid.com/siteDocuments/OIR-20-05M.pdf</p> |
| GEORGIA | <p>(2) “Occupational disease” means those diseases which arise out of and in the course of the particular trade, occupation, process, or employment in which the employee is exposed to such disease, provided the employee or the employee's dependents first prove to the satisfaction of the State Board of Workers' Compensation all of the following:</p> <p>(A) A direct causal connection between the conditions under which the work is performed and the disease;</p> | <p>None to date.</p> | <p>Not applicable.</p> | <p>Not applicable.</p> |

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| | <p>(B) That the disease followed as a natural incident of exposure by reason of the employment;</p> <p>(C) That the disease is not of a character to which the employee may have had substantial exposure outside of the employment;</p> <p>(D) That the disease is not an ordinary disease of life to which the general public is exposed;</p> <p>(E) That the disease must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence.</p> <p>O.C.G.A. § 34-9-280</p> | | | |
| HAWAII | <p>(a) If an employee suffers personal injury either by accident arising out of and in the course of the employment or by disease proximately caused by or resulting from the nature of the employment, the employee's employer or the special compensation fund shall pay compensation to the employee or the employee's dependents as provided in this chapter.</p> <p>Haw. Rev. Stat. Ann. § 386-3</p> | None to date. | Not applicable. | Not applicable. |
| IDAHO | <p>(a) "Occupational disease" means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process, or employment, but shall not include psychological injuries, disorders or conditions unless the conditions set forth in section 72-451, Idaho Code, are met.</p> <p>Idaho Code Ann. § 72-102</p> | None to date. | Not applicable. | Not applicable. |
| ILLINOIS | <p>(d) In this Act the term "Occupational Disease" means a disease arising out of and in the course of the employment or which has</p> | An emergency amendment of the Illinois workers' compensation rules was issued on April 16, 2020, which would have shifted the burden of proof to employers | This emergency law, if it had gone into effect, would have shifted the burden to employer | Emergency Amendment: https://www2.illinois.gov/sites/iwcc/news/Documents/1 |

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| | <p>become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation shall arise out of a risk peculiar to or increased by the employment and not common to the general public.</p> <p>820 Ill. Comp. Stat. Ann. 310/1</p> | <p>in COVID-19 claims for first-responders and front-line workers. The amendment was suspended by a temporary restraining order issued on April 23, 2020 and was subsequently rescinded by the Illinois Workers' Compensation Commission by memorandum on April 27, 2020. A House Bill has been proposed legislation which would implement the same burden-shifting scheme.</p> | <p>to prove the employee did not contract COVID-19 at work. Because the amendment has been rescinded, there are not currently any implications for employers.</p> | <p>5APR20-Notice of Emergency Amendments_CORRECTED-clean-50IAC9030_70.pdf</p> <p>April 27, 2020 Memorandum: https://www2.illinois.gov/sites/iwcc/news/Documents/27APR20-EmergencyProcessesUpdate.pdf</p> <p>Proposed House Bill: http://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=109&GA=101&DocTypeId=HB&DocNum=2455&GAID=15&LegID=118463&SpecSess=1&Session=0</p> |
| INDIANA | <p>(a) As used in this chapter, "occupational disease" means a disease arising out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where such diseases follow as an incident of an occupational disease as defined in this section.</p> <p>(b) A disease arises out of the employment only if there is apparent to the rational mind, upon consideration of all of the circumstances, a direct causal connection between the conditions under which the work is performed and the occupational disease....,</p> <p>Ind. Code Ann. § 22-3-7-10</p> | None to date. | Not applicable. | Not applicable. |
| IOWA | Occupational diseases shall be only those diseases which arise out of and in the course of the employee's | None to date. | Not applicable. | Not applicable. |

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| | <p>employment. Such diseases shall have a direct causal connection with the employment and must have followed as a natural incident thereto from injurious exposure occasioned by the nature of the employment. Such disease must be incidental to the character of the business, occupation or process in which the employee was employed and not independent of the employment.</p> <p>Iowa Code Ann. § 85A.8</p> | | | |
| KANSAS | <p>(b) "Occupational disease" shall mean only a disease arising out of and in the course of the employment resulting from the nature of the employment in which the employee was engaged under such employer, and which was actually contracted while so engaged. "Nature of the employment" shall mean, for purposes of this section, that to the occupation, trade or employment in which the employee was engaged, there is attached a particular and peculiar hazard of such disease which distinguishes the employment from other occupations and employments, and which creates a hazard of such disease which is in excess of the hazard of such disease in general.</p> <p>Kan. Stat. Ann. § 44-5a01</p> | None to date. | Not applicable. | Not applicable. |
| KENTUCKY | <p>(2) "Occupational disease" means a disease arising out of and in the course of the employment;</p> <p>(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident</p> | <p>Kentucky's Governor issued an Executive Order on April 9, 2020 providing indemnity benefit payments to workers who are directed to self-quarantine by a physician due to occupational exposure to COVID-19 even if the employer ultimately denies liability for the claim. The order requires there be a causal connection between the work conditions and the contraction of the virus. The Executive Order provides a list of workers to whom a presumption that quarantining is due to occupational exposure to COVID-19. Employers may rebut the</p> | <p>This Order means that employers/insurers are required to provide certain employees with income benefits while they are out of work due to COVID-19 exposure unless there exists a good faith basis for denial.</p> | <p>https://governor.ky.gov/attachments/20200409_Executive-Order_2020-277_Workers-Compensation.pdf</p> |

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| | to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. ; Ky. Rev. Stat. Ann. § 342.0011 | presumption only if there exists a good faith basis to do so. The Order is in effect for the duration of the state of emergency declared under Executive Order 2020-215 or until the Order is rescinded by further order or operation of law. | | |
| LOUISIANA | B. An occupational disease means only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process, or employment in which the employee is exposed to such disease. La. Rev. Stat. Ann. § 23:1031.1 | Legislation has been proposed which would provide coverage for essential workers who are disabled or die due to COVID-19. "Essential worker" under the proposed law includes persons working in public safety, government, disaster response, health care, or private business as designated and deemed necessary or critical for response to the COVID-19 pandemic by their employer or by virtue of their official commission. | This legislation, if passed, would treat essential workers (as identified by the law) who become disabled or die due to COVID-19 the same as if they suffered an injury by accident in the course and scope of employment. The proposed law would additionally require employers to post notice regarding the time limitations in which COVID-19 claims must be filed. | https://www.legis.la.gov/legis/ViewDocument.aspx?d=1168160 |
| MAINE | As used in this chapter, the term "occupational disease" means only a disease that is due to causes and conditions characteristic of a particular trade, occupation, process or employment and that arises out of and in the course of employment. Me. Rev. Stat. tit. 39-A, § 603 | None to date. | Not applicable. | Not applicable. |
| MARYLAND | (g) "Occupational disease" means a disease contracted by a covered employee: (1) as the result of and in the course of employment; and (2) that causes the covered employee to become temporarily or permanently, partially or totally incapacitated. Md. Code Ann., Lab. & Empl. § 9-101 | None to date. | Not applicable. | Not applicable. |
| MASSACHUSETTS | (7A) "Personal injury" includes infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by | A proposed amendment to Massachusetts workers' compensation law would provide that in any claim for compensation where the employee has been diagnosed with COVID-19, it will | This legislation, if passed, would extend workers' compensation coverage to emergency | |

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| | an employee is inherent in the employment. Mass. Gen. Laws Ann. ch. 152, § 1 | be prima facie evidence that (i) the employee was performing his or her regular duties at the time of contracting COVID-19; (ii) the claim comes within the provisions of the workers' compensation chapter; and (iii) sufficient notice of the injury has been given. | response and medical personnel who contract COVID-19. The provision would apply to emergency medical technicians, emergency room and urgent care medical personnel, and emergency room and urgent care non-medical staff. | |
| MICHIGAN | <p>"Personal injury" includes a disease or disability that is due to causes and conditions that are characteristic of and peculiar to the business of the employer and that arises out of and in the course of the employment. An ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. A personal injury under this act is compensable if work causes, contributes to, or aggravates pathology in a manner so as to create a pathology that is medically distinguishable from any pathology that existed prior to the injury.</p> <p>Mich. Comp. Laws Ann. § 418.401</p> | <p>On March 30, 2020, the Michigan Workers' Compensation Agency promulgated Emergency Rules stating that, unless proven otherwise, first response employees suffer from a "personal injury that arises out of and in the course of employment" if the individual is diagnosed with COVID-19 either by a physician or as a result of a test. This rule remains in effect for six months.</p> <p>The state has also seen three pieces of proposed legislation (House Bill No. 5743, House Bill No. 5758, and Senate Bill No. 906), all of which would give rise to a rebuttable presumption of claim compensability for essential workers who contract COVID-19.</p> | <p>This rule means that denial of a claim by a first responder for COVID-19 is considered a violation of state law and may result in penalties unless the denial is based on specific facts demonstrating that the individual was not exposed to COVID-19 at work. Should any of the proposed bills pass, they will expand the rebuttable presumption to certain essential workers.</p> | <p>Emergency Rules: https://www.michigan.gov/documents/leo/WDCA_COVID-19_First_Response_ER_686779_7.pdf</p> <p>House Bill No. 5743: http://www.legislature.mi.gov/documents/2019-2020/billintroduce/House/pdf/2020-HIB-5743.pdf;</p> <p>House Bill No. 5758: http://www.legislature.mi.gov/documents/2019-2020/billintroduce/House/pdf/2020-HIB-5758.pdf</p> <p>Senate Bill No. 906: http://www.legislature.mi.gov/documents/2019-2020/billintroduce/Senate/pdf/2020-SIB-0906.pdf;</p> |
| MINNESOTA | Subd. 15. Occupational disease. (a) "Occupational disease" means a mental impairment as defined in paragraph (d) or physical disease arising out of and in | On April 8, 2020, Minnesota passed a bill amending its Occupational Disease statute to include a presumption for COVID-19 workers' compensation claims for several enumerated classes of | This new law provides that certain healthcare workers and first responders who contract COVID-19 | https://www.house.leg.state.mn.us/df/pdf/a7308a83-b58d-4578-93b1-1ac3f8475906.pdf |

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| | <p>the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment and shall include undulant fever. A disease arises out of the employment only if there be a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. Minn. Stat. Ann. § 176.011</p> | <p>first responders and healthcare workers. The provision specifies that the individual's contraction of COVID-19 must be confirmed by a positive test or, if a test was not available, by a diagnosis from a doctor, a PA, or an APRN. A copy of the test results or written diagnosis must be provided to the employer/insurer. If the employee successfully shows the above, the employer may rebut the presumption by showing that employment was not a direct cause of the disease. The date of injury for such claims is the date the employee was first unable to work due to diagnosis or symptoms. Employees who contracted COVID-19 but are not entitled to the above presumption may still claim an occupational disease or personal injury under prior state law. This law sunsets on May 1, 2021.</p> | <p>are presumed to have contracted it at work. Employers/Insurers may require written test results or diagnostic records to verify claims.</p> | |
| MISSISSIPPI | <p>"Injury" means accidental injury or accidental death arising out of and in the course of employment without regard to fault which results from an untoward event or events, if contributed to or aggravated or accelerated by the employment in a significant manner. Untoward event includes events causing unexpected results. An untoward event or events shall not be presumed to have arisen out of and in the course of employment, except in the case of an employee found dead in the course of employment... Occupational diseases, or the aggravation thereof, are excluded from the term "injury," provided that, except as otherwise specified, all provisions of this chapter apply equally to occupational diseases as well as injury. Miss. Code. Ann. § 71-3-3</p> | None to date. | Not applicable. | Not applicable. |
| MISSOURI | <p>An occupational disease is a condition or illness caused by occupational exposure in the workplace. In order for an occupational disease to be covered under the workers'</p> | <p>On April 7, 2020, the Department of Labor and Industrial Relations with its Division of Workers' Compensation filed an emergency rule under the workers' compensation statue to provide a</p> | <p>This new law shifts the burden of proof onto those employers of emergency response and</p> | <p>https://labor.mo.gov/coronavirus#mini-panel-coronavirus-tabs3</p> |

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| | compensation law, the employee must prove that work was the prevailing factor in causing both the medical condition and disability resulting from the claimed occupational disease. | presumption that first responders contracting COVID-19 were infected in the course of their employment. The Labor and Industrial Relations Commission voted unanimously to approve the emergency rule. The emergency rule will be effective on April 22, 2020. The emergency rule allows for retroactive application of the presumption for instances which occurred prior to its effective date. A "first responder" is a law enforcement officer, firefighter or an emergency medical technician (EMT) as such occupations are defined under Section 287.243. | medical workers to prove the employee did not contract COVID-19 in the course of employment. | https://labor.mo.gov/sites/labor/files/8_CSR_50-5.005_Emergency_Final.pdf https://labor.mo.gov/DWC/Injured_Workers/occ_disease |
| MONTANA | Montana Labor Codes § 39-71-116(20)(a) "Occupational disease" means harm, damage, or death arising out of or contracted in the course and scope of employment caused by events occurring on more than a single day or work shift. | None to date. | Not applicable. | Not applicable. |
| NEBRASKA | Nebraska Revised Statute 48-151(3) Occupational disease means only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment and excludes all ordinary diseases of life to which the general public is exposed; | None to date. | Not applicable. | Not applicable. |
| NEVADA | <p>1. An occupational disease defined in this chapter shall be deemed to arise out of and in the course of the employment if:</p> <p>(a) There is a direct causal connection between the conditions under which the work is performed and the occupational disease;</p> <p>(b) It can be seen to have followed as a natural incident of the work as a result of the</p> | None to date. | Not applicable. | Not applicable. |

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| | <p>exposure occasioned by the nature of the employment;</p> <p>(c) It can be fairly traced to the employment as the proximate cause; and</p> <p>(d) It does not come from a hazard to which workers would have been equally exposed outside of the employment.</p> <p>2. The disease must be incidental to the character of the business and not independent of the relation of the employer and employee....</p> <p>5. The requirements set forth in this section do not apply to claims filed pursuant to NRS 617.453, 617.455, 617.457, 617.485 or 617.487.</p> | | | |
| NEW HAMPSHIRE | <p>RSA 281-A:2 XIII. "Occupational disease" means an injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment. It shall not include other diseases or death therefrom unless they are the direct result of an accidental injury arising out of or in the course of employment, nor shall it include either a disease which existed at commencement of the employment or a disease to which the last injurious exposure to its hazards occurred prior to August 31, 1947.</p> | <p>Yes. On April 24, 2020, Governor Sununu issued Emergency Order #36 which creates a "prima facie presumption that the First Responder's COVID-19 exposure and infection were occupationally related." The term "First Responders" shall include any individual covered by the definition of "Emergency response/public safety worker" as set forth in RSA 281-A:2 V-c.</p> | <p>This new law shifts the burden of proof onto those employers of emergency response and medical workers to prove the employee did not contract COVID-19 in the course of employment.</p> | <p>http://www.gencourt.state.nh.us/rsa/html/XXIII/281-A/281-A-2.htm https://www.governor.nh.gov/news-media/emergency-orders/documents/emergency-order-36.pdf</p> |

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| NEW JERSEY | <p>"Compensable occupational disease" defined.</p> <p>a. For the purpose of this article, the phrase "compensable occupational disease" shall include all diseases arising out of and in the course of employment, which are due in a material degree to causes and conditions which are or were characteristic of or peculiar to a particular trade, occupation, process or place of employment. New Jersey Code 34:15-31.</p> | <p>On July 30, 2020, both houses of the New Jersey Legislature passed Senate Bill 2380. The bill has been sent to Governor Murphy for his consideration of the bill. The bill, if signed into law, would create a rebuttable presumption that an essential worker who contracts COVID-19 did so at work. Senate Bill 2380 (Assembly Bill 3999) provides that "essential employee" includes but is not limited to, a health care worker or a public safety worker. Specifically, it includes an employee that is "considered essential in support of gubernatorial or federally declared statewide emergency response and recovery operations," or "an employee in the public or private sector with duties and responsibilities, the performance of which is essential to the public's health, safety, and welfare." The presumption "shall only apply to an essential employee who performs functions pertaining to those roles and involving interactions with the public during the public health emergency declared by Executive Order 103 of 2020, as extended by subsequent executive orders." This presumption may be rebutted by "a preponderance of the evidence showing that the worker was not exposed to the disease."</p> | <p>This new law shifts the burden of proof onto those employers of "essential workers" which appears to include, but is not limited to, emergency response and medical workers, to prove the employee did not contract COVID-19 in the course of employment.</p> | <p>https://www.njleg.state.nj.us/2020/Bills/A4000/3999_I1.PDF https://www.njleg.state.nj.us/bills/BillView.asp https://www.billtrack50.com/BillDetail/1228818</p> |
| NEW MEXICO | <p>New Mexico Statutes 52-3-33. As used in the New Mexico Occupational Disease Disablement Law, "occupational disease" includes any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such and includes any disease due to, or attributable to, exposure to or contact with any radioactive material by an</p> | <p>None to date. However, an executive order issued by Governor Grisham (2020-025) creates a presumption of a compensable claim for certain state agency employees (state agency first responders and staff of COVID-19 specific care centers) who contract COVID-19. This executive order does not apply to local governments or insurance carriers. Further, any action taken by a state agency pursuant to this order is at the sole discretion of the agency and not subject to further review.</p> | <p>None, unless the employer is a state agency.</p> | <p>https://www.iaff.org/wp-content/uploads/NM-Executive-Order-2020-025.pdf</p> |

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| | <p>employee in the course of his employment.</p> <p>52-3-32. Occupational diseases; proximate causation.</p> <p>The occupational diseases defined in Section 52-3-33 NMSA 1978 shall be deemed to arise out of the employment only if there is a direct causal connection between the conditions under which the work is performed and the occupational disease and which can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The disease must be incidental to the character of the business and not independent of the relation of employer and employee.</p> | | | |
| NEW YORK | <p>"Occupational disease" means a disease resulting from the nature of employment and contracted therein. It also includes a list of scheduled diseases.</p> | <p>Proposed legislation, Senate Bill 8117, creates a presumption that impairment of health caused by COVID-19 was incurred in the performance and discharge of duty of certain police, parole and probation officers and other emergency responders. It would also create a new section of the law to include "essential employees" as having a compensable workers' compensation claim if they contract COVID-19. Essential employees are defined by Executive Order 202.6 and include those who worked for an essential business beginning January 1, 2020. These essential employees must provide a written, sworn statement (on the commission's form) indicating the dates and locations of participation and the name of the employer during the period of participation.</p> <p>Other proposed legislation, Senate Bill 8266, would include</p> | <p>This legislation, if passed, would certainly shift the burden of proof onto those employers of first responders, and potentially of essential workers as well. Moreover, nearly all employers will see an impact should COVID-19 be included as an occupational disease.</p> | <p>https://www.nysenate.gov/legislation/bills/2019/s8117 https://www.nysenate.gov/legislation/bills/2019/s8266</p> |

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| | | COVID-19 as an “occupational disease” under New York law and would potentially apply to any and all work that causes workers to be in contact with the public. | | |
| NORTH CAROLINA | Occupational diseases are those diseases scheduled under G.S. 97-53. Subsection (13) further provides that an occupational disease also includes “any disease ... which is proven to be due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation or employment but excluding all ordinary diseases of life which the general public is equally exposed outside of employment.” | Proposed legislation, House Bill 1057, would make sweeping changes by amending the definition of enumerated occupational diseases in G.S. 97-53 to include “pandemic” diseases. It would also create a rebuttable presumption for first responders and other essential workers as set forth through executive order, such as food service, retail and other essential personnel. A more limited proposal, House Bill 1056, would only create a presumption for first responders and health care workers. | This legislation, if passed, would shift the burden of proof onto those employers of first responders and, depending upon the bill passed, other essential personnel. As written, it would appear that the majority of employers will see some impact. | https://www.ncleg.gov/Sessions/2019/Bills/House/PDF/H1057v1.pdf |
| NORTH DAKOTA | An occupational disease is a “disease caused by a hazard to which an employee is subjected in the course of employment. The disease must be incidental to the character of the business and not independent of the relation of employer and employee. Disease includes effects from radiation.” N.D.C.C. 65-01-02(11)(a)(1). Occupational disease does not include “ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases.” N.D.C.C. 65-01-02(11)(b)(1). | On March 25, 2020, Governor Burgum issued Executive Order 2020-12, effective March 13, 2020, which extends workers’ compensation coverage for first responders and front-line healthcare workers. The employee must test positive for COVID-19 and demonstrate that the exposure was work-related. Executive Order 2020-12.1 extends this same protection to funeral directors and funeral home workers who test positive for COVID-19 and can demonstrate that the illness resulted from exposure to a deceased individual. | This executive order does not create a rebuttable presumption but will certainly impact those employers who employ first responders, front-line healthcare workers and funeral home workers. | https://www.governor.nd.gov/sites/www/files/document/s/executive-orders/Executive%20Order%202020-12%20WSI%20extension%20for%201st%20responders.pdf |
| OHIO | O.R.C. 4123.01(F) defines an “Occupational disease” as “a disease contracted in the course of employment, which by its causes and the characteristics of its manifestation or the condition of the employment results in a hazard which distinguishes the employment in character from employment generally, and the employment creates a risk of contracting the disease in greater degree and in a different manner from the | Several bills are currently being considered, but all are still in committee. HB605 would amend R.C. 4123.68 (the scheduled occupational diseases) to include a rebuttable presumption that COVID-19 was contracted at work and is therefore compensable for employees of a retail food establishment or food processing establishment. HB573, provides a rebuttable presumption of compensability for those employees who were required to work by the employee’s employer | HB605, if passed, would shift the burden of proof onto those employers of “retail food and food processing establishments. HB573 is much broader, and, if passed, would shift this burden onto all employers who required employees to work outside of | https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-605 https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-573 https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA133-HB-633 |

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| | <p>public in general.” Occupational diseases also include the schedule of compensable occupational diseases enumerated in R.C. 4123.68.</p> | <p>outside the employee’s home. HB571 would only apply a rebuttable presumption for first responders and a more recent proposal, HB633, would create a rebuttable presumption for employees of nursing homes, residential care facilities and health care facilities or locations. Two other bills, HB667 and HB668, would provide a rebuttable presumption for corrections officers and first responders respectively.</p> | <p>their homes and the more limited HB571 would apply only to employers of first responders. HB633 would shift the burden onto employers of nursing home, residential care and health care facility employees. Finally, HB667 and HB668 would shift the burden to employers of corrections officers and first responders respectively.</p> | <p>https://www.legislation.ohio.gov/legislation/legislation-summary?id=GA133-HB-571</p> <p>https://www.legislation.ohio.gov/legislation/legislation-documents?id=GA133-HB-667</p> <p>https://www.legislation.ohio.gov/legislation/legislation-documents?id=GA133-HB-668</p> |
| OKLAHOMA | <p>Oklahoma Statutes 85A-65 D. 1. "Occupational disease", as used in this act, unless the context otherwise requires, means any disease that results in disability or death and arises out of and in the course of the occupation or employment of the employee or naturally follows or unavoidably results from an injury as that term is defined in this act. A causal connection between the occupation or employment and the occupational disease shall be established by a preponderance of the evidence.</p> <p>2. No compensation shall be payable for any contagious or infectious disease unless contracted in the course and scope of employment in or immediately connected with a hospital or sanatorium in which persons suffering from that disease are cared for or treated.</p> <p>3. No compensation shall be payable for any ordinary disease of life to which the general public is exposed.</p> | None to date. | Not applicable. | Not applicable. |

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| OREGON | <p>O.R.S. 656.802(1)(a) As used in this chapter, "occupational disease" means any disease or infection arising out of and in the course of employment caused by substances or activities to which an employee is not ordinarily subjected or exposed other than during a period of regular actual employment therein, and which requires medical services or results in disability or death, including:</p> <p>(A) Any disease or infection</p> <p>(d) Existence of an occupational disease or worsening of a preexisting disease must be established by medical evidence supported by objective findings.</p> | None to date. | Not applicable. | Not applicable. |
| PENNSYLVANIA | <p>Pennsylvania has a scheduled list of occupational diseases. Other diseases not specifically mentioned can be compensable if they meet certain criteria for determining whether a disease is occupationally related. The determination if a disease is compensable depends on the following:</p> <ol style="list-style-type: none"> 1. The employee is exposed to the disease by reason of his/her employment. 2. The disease is causally related to the employee's industry or occupation. 3. The occurrence of the disease is substantially greater in that industry or occupation than it is in the general population. <p>77 P.S. § 27.1</p> | <p>Proposed House Bill 2396 provides that if a life-sustaining worker contracts an infectious disease that requires hospitalization, quarantine, isolation or other controlled measures, the bill establishes the presumption that the worker's medical condition or inability to work was a result of their work-related duties.</p> <p>As such, the worker would not be required to use sick time, vacation time, personal time or any other accrued paid-time off or contractual-time off to cover the period the worker is unable to work.</p> <p>Furthermore, the worker would be eligible and qualified for workers' compensation during the period of incapacitation or inability to work. The bill further provides that the worker would be qualified for both unemployment benefits and workers' compensation benefits, the latter of which would be for "all medical costs related to infection or exposure." Individuals employed "by a life-sustaining business or occupation" is broad and includes fourteen categories of employees: (1) first responders; (2) corrections officers; (3)</p> | <p>The broad language of HB2396, if passed, would shift the burden of proof onto the vast majority of employers in the state.</p> <p>The more limited language of HB2485 would only shift the burden to employers of health care providers who provide in-person care to patients.</p> | <p>https://www.legis.state.pa.us/cfdocs/billInfo/billInfo.cfm?sYear=2019&slnd=0&body=H&type=B&bn=2396</p> <p>https://legiscan.com/PA/text/HB2485/2019</p> |

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| | | <p>emergency services dispatchers; (4) ambulance drivers; (5) retail workers, including restaurant, food services and grocery store workers, cashiers and support staff; (6) food and agricultural workers; (7) medical, health care and public health workers, including doctors, nurses etc.; (8) pharmacists and support staff; (9) home health care workers; (10) public utility workers; (11) employees of state or local government; (12) trash collectors; (13) warehouse workers; and (14) “any other individual employed by a life-sustaining business or occupation who is required to work during a public health emergency.”</p> <p>A more recent proposal, HB2485, would provide a rebuttable presumption for health care providers who provide in-person care to patients involving exposure to COVID-19.</p> | | |
| RHODE ISLAND | <p>“Occupational disease” means “a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment.” G.L. 28-34-1(3). G.L. 28-34-4 further provides: “Neither the employee nor his or her dependents shall be entitled to compensation for disability or death resulting from an occupational disease, unless that occupational disease is due to the nature of his or her employment and was contracted in that employment.</p> | <p>On April 17, 2020, Governor Gina M. Raimondo and Nicole Alexander-Scott, MD, MPH, the Director of the Rhode Island Department of Health (RIDOH), made several announcements about the state's response to coronavirus disease 2019 (COVID-19): “Workers’ Compensation: Beacon Mutual Insurance Company, which insures 12,000 Rhode Island businesses, will be allowing frontline healthcare workers to file for workers compensation under the presumption that they contracted the virus in the course of doing their jobs – and will expedite those claims. This includes doctors, nurses, EMTs, home health aides and others.”</p> <p>More recently, a bill has been proposed, HB8066, that would provide a presumption to a broad array of occupations, that contracting COVID-19 is work-related.</p> | <p>Those employers who have their workers’ compensation insurance through Beacon Mutual Insurance Company, and who employ frontline healthcare workers, will see the burden of proof shift to them for all COVID-19 claims. Expect other insurance companies to follow suit.</p> <p>Should HB8066 pass, it would shift the burden to a broad range of employers, including employers of first responders, grocery stores, corrections officers, employees in public transportation, all essential workers</p> | <p>https://www.ri.gov/press/view/38163</p> <p>http://webserver.ri.in.state.ri.us/BillText/BillText20/HouseText20/H8066.pdf</p> |

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| SOUTH CAROLINA | <p>South Carolina Code of Laws, Section 42-11-10: (A) "Occupational disease" means a disease arising out of and in the course of employment that is due to hazards in excess of those ordinarily incident to employment and is peculiar to the occupation in which the employee is engaged. A disease is considered an occupational disease only if caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment as a direct result of continuous exposure to the normal working conditions of that particular trade, process, occupation, or employment. In a claim for an occupational disease, the employee shall establish that the occupational disease arose directly and naturally from exposure in this State to the hazards peculiar to the particular employment by a preponderance of the evidence.</p> <p>(B) No disease shall be considered an occupational disease when it: (3) is a contagious disease resulting from exposure to fellow employees or from a hazard to which the workman would have been equally exposed outside of his employment;</p> | <p>On May 12, 2020, HB5482 was proposed which would provide a rebuttable presumption of compensability to first responders, health care providers and correctional officers who contract COVID-19.</p> | <p>and several other categories. HB5482, if passed, would shift the burden of proof onto employers of first responders, health care providers and correctional officers</p> | <p>https://www.scstatehouse.gov/sess123_2019-2020/bills/5482.htm</p> |
| SOUTH DAKOTA | <p>"Occupational disease" is defined in SDCL 62-8-1(6) as a disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment and includes any disease due or attributable to exposure to or contact with any radioactive material by an employee in the course of employment.</p> | <p>None to date.</p> | <p>Not applicable.</p> | <p>Not applicable.</p> |

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| TENNESSEE | <p>Tennessee Code § 50-6-301(a) provides that “occupational diseases” means all diseases arising out of and in the course of employment. A disease shall be deemed to arise out of the employment only if:</p> <ul style="list-style-type: none"> (1) It can be determined to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (2) It can be fairly traced to the employment as a proximate cause; (3) It has not originated from a hazard to which workers would have been equally exposed outside of the employment; (4) It is incidental to the character of the employment and not independent of the relation of employer and employee; (5) It originated from a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected prior to its contraction; and (6) There is a direct causal connection between the conditions under which the work is performed and the occupational disease. | <p>Last month, a proposed bill, SB8007b, failed in committee. It would have provided a rebuttable presumption for essential workers if at least ten (10) or more employees at the same location also contracted COVID-19. The proposed bill would have allowed nonessential employees to still file a claim based upon COVID-19, but they would not enjoy any presumption. A similar bill was submitted in the House (HB8008), but there has been no action on it. Based upon the Senate’s reaction to SB8007b in committee, HB8008 has little chance of becoming law.</p> | Not applicable. | http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB8007 |
| TEXAS | An occupational disease is defined by the Texas Workers' Compensation Act | None to date. | Not applicable. | Not applicable. |

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| | to mean a disease arising out of and in the course of employment that causes damage or harm to the physical structure of the body. This definition includes a repetitive trauma injury. An occupational disease specifically does not include an ordinary disease of life to which the general public is exposed outside of employment except where that disease is related to a compensable injury or occupational disease. | | | |
| UTAH | Utah Code 34A-3-103. Occupational diseases. "For purposes of this chapter, a compensable occupational disease means any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment." | <p>On April 22, 2020, HB3007 was enacted into law and creates a rebuttable presumption that first responders and health care providers who contract COVID-19 have a compensable workers' compensation claim. "First responder" means: (i) an emergency responder or health care provider as defined in 29 C.F.R. Part 826, Subpart C. An individual is diagnosed with COVID-19 if the individual tests positive for the virus that causes COVID-19 through laboratory testing and is diagnosed with COVID-19 by a physician.</p> <p>On June 25, 2020, HB5006 was signed into law, which modifies HB3007. The main modification is the source of the definitions for "first responder," which is changed from the federal law to the state law definition.</p> | This new law shifts the burden of proof onto those employers of first responders to prove the employee did not contract COVID-19 in the course of employment. | <p>https://le.utah.gov/~2020S3/bills/statci/HB3007.html</p> <p>https://le.utah.gov/~2020S5/bills/statci/HB5006.html</p> |
| VERMONT | Vermont Statutes, Title 21, Chapter 9, § 601(23) defines "Occupational disease" as "a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment and arises out of and in the course of the employment." | On July 13, S342 was signed into law. It provides for a rebuttable presumption of compensability for front-line workers who test positive for COVID-19 between March 1, 2020 and January 15, 2021. The term "front-line worker" includes ten categories of workers: (A) firefighters; (B) law enforcement officers; (C) ambulance service/emergency medical personnel; (D) worker at a health care facility; (E) correctional officer; (F) worker in long-term health care or residential facility; (G) childcare provider required to provide care | This law shifts the burden of proof onto those employers of front-line workers to prove the employee did not contract COVID-19 in the course of employment. Because of the broad definition of "front-line worker," a large number of employers will be affected. | <p>https://legislature.vermont.gov/bill/status/2020/S.342</p> <p>https://legislature.vermont.gov/Documents/2020/Docs/BILLS/S-0342/S-0342%20As%20passed%20by%20the%20Senate%20Official.pdf</p> <p>https://legislature.vermont.gov/bill/status/2020/S.342</p> |

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| | | <p>for children of front-line workers; (H) employee of pharmacy or grocery store; (I) home health care worker or personal care attendant; and “(J) a worker performing services that the Commissioner determines place the worker at a similarly elevated risk of being exposed to or contracting COVID-19 as the other occupations listed in this subsection.” The employer must demonstrate by a preponderance of the evidence that the disease was caused by non-employment-connected risk factors or non-employment-connected exposure.</p> | | |
| VIRGINIA | <p>Code of Virginia § 65.2-400. "Occupational disease" defined.</p> <p>A. As used in this title, unless the context clearly indicates otherwise, the term "occupational disease" means a disease arising out of and in the course of employment, but not an ordinary disease of life to which the general public is exposed outside of the employment.</p> <p>B. A disease shall be deemed to arise out of the employment only if there is apparent to the rational mind, upon consideration of all the circumstances:</p> <ol style="list-style-type: none"> 1. A direct causal connection between the conditions under which work is performed and the occupational disease; 2. It can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; 3. It can be fairly traced to the employment as the proximate cause; 4. It is neither a disease to which an employee may have | <p>Three recent bills, SB5022a, SB5097a and SB5104a, would have provided a rebuttable presumption to different classifications of workers but all failed. However, HB5028a, which passed the House, would establish “a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, first responders, health care providers, and school board employees is an occupational disease compensable under the Workers' Compensation Act.” The bill, if passed into law, would be retroactive to January 1, 2020.</p> <p>SB5066 is currently in committee. If passed as law, it would establish “a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, first responders, and health care providers is an occupational disease compensable under the Workers' Compensation Act.” As with HB5028a, this bill, if made law, would be retroactive to January 1, 2020.</p> | <p>Should HB5028a become law, it would shift the burden of proof to those employers employing first responders, health care providers and school employees.</p> <p>Should SB5066 become law, it would shift the burden of proof to employers of first responders and health care providers.</p> | <p>https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=hb5028&submit=GO</p> <p>https://lis.virginia.gov/cgi-bin/legp604.exe?ses=202&typ=bil&val=sb5066&submit=GO</p> |

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| | <p>had substantial exposure outside of the employment, nor any condition of the neck, back or spinal column;</p> <p>5. It is incidental to the character of the business and not independent of the relation of employer and employee; and</p> <p>6. It had its origin in a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction.</p> | | | |
| WASHINGTON | <p>RCW § 51.08.140 defines "occupational disease" as "such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title."</p> | <p>On March 5, 2020, Governor Inslee issued a press release changing the Department of Labor and Industries' policy regarding workers' compensation benefits for quarantined health workers/first responders. Under the clarified policy, L&I will provide benefits to these workers during the time they're quarantined after being exposed to COVID-19 on the job.</p> <p>Workers' compensation coverage can include medical testing, cover treatment expenses if a worker becomes ill or injured and provide time-loss payments for those who cannot work if they are sick or quarantined.</p> | <p>This policy provides limited additional protections to a select group of employees: health workers and first responders.</p> | <p>https://www.governor.wa.gov/news-media/inslee-announces-workers-compensation-coverage-include-quarantined-health-workersfirst</p> |
| WEST VIRGINIA | <p>West Virginia Code § 23-4-1(f) defines an occupational disease as a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment is compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of occupational pneumoconiosis, a disease is considered to have been incurred in the course of or to have resulted from the</p> | <p>None to date.</p> | <p>Not applicable.</p> | <p>Not applicable.</p> |

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| | <p>employment only if it is apparent to the rational mind, upon consideration of all the circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as the proximate cause; (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction:</p> | | | |
| WISCONSIN | <p>Wisconsin Statutes § 102.01(2)(c) provides that an "injury" means mental or physical harm to an employee caused by accident or disease, and also means damage to or destruction of artificial members, dental appliances, teeth, hearing aids and eyeglasses, but, in the case of hearing aids or eyeglasses, only if such damage or destruction resulted from accident which also caused personal injury entitling the employee to compensation therefor either for disability or treatment. Subsection 102.03(1)(e) includes liability "where the accident or disease-causing injury arises out of the employee's employment."</p> | <p>On April 15, 2020 Act 185 was enacted into law and creates a rebuttable presumption for first responders who contract COVID-19. The Act defines "first responder" as "an employee of or volunteer for an employer that provides fire fighting, law enforcement, or medical treatment of COVID-19, and who has regular, direct contact with, or is regularly in close proximity to, patients or other members of the public requiring emergency services, within the scope of the individual' work for the employer." If the first responder "has been exposed to persons with confirmed cases of COVID-19 in the course of employment, the injury is presumed to be caused by the individual's employment." Finally, the injury claimed must include a specific diagnosis from a physician or a positive COVID-19</p> | <p>This new law shifts the burden of proof onto those employers of first responders to prove the employee did not contract COVID-19 in the course of employment.</p> | <p>https://docs.legis.wisconsin.gov/2019/related/acts/185</p> |

| State | How the state defines an occupational disease | Legislative action on COVID-19 | Practical Implication for Employers | Link to Legislative Changes |
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| | | test. The claim may be rebutted “by specific evidence that the injury was caused by exposure to COVID-19 outside of the first responder’s work for the employer.” | | |
| WYOMING | <p>Wyoming Statutes § 27-15-102(a)(xi) provides that an "Injury" means any harmful change in the human organism other than normal aging and includes damage to or loss of any artificial replacement and death, arising out of and in the course of employment while at work in or about the premises occupied, used or controlled by the employer and incurred while at work in places where the employer's business requires an employee's presence and which subjects the employee to extra hazardous duties incident to the business. "Injury" does not include:</p> <p>(A) Any illness or communicable disease unless the risk of contracting the illness or disease is increased by the nature of the employment.</p> | <p>Yes. HB1002 (SF1002) was introduced in the legislature and passed on May 16th. signed on May 20, 2020, by Governor Gordon. The change in the law provides that “for the period beginning January 1, 2020 through December 30, 2020, if any employee in an employment sector for which coverage is provided by this act is infected with COVID-19 Coronavirus, it shall be presumed that the risk of contradicting the illness or disease was increased by the nature of employment.” Significantly, any costs incurred for these claims are not chargeable to the employer’s experience and therefore would not have an impact on future premium rates.</p> | <p>The law appears to apply broadly and would affect most employers in the state. However, any such claims will not be charged to the employer’s workers’ compensation experience.</p> | <p>https://legiscan.com/WY/bill/SF1002/2020/X1</p> |

Notice: Seek Specific Advice from an Employment Attorney

Numerous regulations, interpretations, and other authorities must be evaluated in applying these principles. This document is intended for general information purposes only. It is not a complete or all-inclusive explanation, and it should not be construed as legal advice on any specific facts or circumstances. You are urged to consult experienced counsel concerning your specific situation and any specific legal questions you might have.

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