Illinois Department of Insurance

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TO: All Carriers and Producers Writing Workers' Compensation Policies

FROM: Ann Gillespie, Director AG

DATE: December 29, 2025

RE: Company Bulletin 2025-22 - Requirements for Policies of Illinois Employers' Workers' Compensation Liability

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The Illinois Department of Insurance (DOI) Workers' Compensation Compliance Division has learned that some employers may have been inadvertently advised by their respective producer or may not fully understand the scope of their obligation to provide workers' compensation coverage under the Illinois Workers' Compensation Act, 820 ILCS 305 ("the Act"). The DOI is issuing the below guidance to remind carriers, producers, and employers of the employers' broad obligations to provide workers' compensation coverage for Illinois exposures under the Act. DOI encourages all producers licensed to bind workers' compensation coverage in Illinois to ensure they are familiar with requirements applicable to clients operating full or part time in Illinois, so they may effectively assist clients in complying with the law and insuring their workers' compensation liability.

Employers in Illinois are presumed to know their obligations under Illinois law, and bear responsibility for adhering to Illinois law when applicable. (See *Ill. Inst. of Tech. Research Inst. v. Indus. Comm'n*, 314 Ill. App. 3d 149, 157 (2000)).

The Act requires virtually all Illinois employers to insure or otherwise secure their entire workers' compensation liability in the manner set forth by statute. 820 ILCS 305/4(a)(3). Aside from narrowly applicable provisions contained in Paragraphs 17, 18, 19 and 20 of Section 3, the Act contains no exceptions from this requirement. Therefore, in short, even an employer with only one (1) part-time employee in Illinois likely is required to insure its workers' compensation liability.

Illinois requirements may differ from other states' requirements. Other states' laws may contain exemptions or exceptions not found in Illinois law or may not require coverage for businesses with fewer than a certain number of employees. Holding a policy in another state or adhering to another state's workers' compensation coverage requirements may not prevent a finding that the employer knowingly failed to provide coverage required in Illinois.

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Most often, coverage for an employer's entire workers' compensation liability requires ensuring the policy lists Illinois in Section 3A of the policy, meaning that Illinois is a primary state for the policy. Some employers have indicated they have been misinformed that having Illinois listed in Section 3C, the "other states" section of the policy, is sufficient to comply with Illinois law. Section 3C identifies states where the employer may operate intermittently and provides specific steps that the employer must take to ensure activities in these states are covered, such as informing the insurance carrier in advance of the activities. Whether listing Illinois in 3C is sufficient for a court to require coverage of a given claim depends upon the facts specific to the business and the claim.

Insurance carriers have successfully raised the failure to include Illinois in Section 3A, or the employer's failure to follow the steps outlined in Section 3C, to avoid any obligation to cover an injured workers' claim. If the court finds that the insurance carrier is not responsible for covering the claim, the employer is responsible for payment, without the participation of the workers' compensation policy. As a result, the employer could be found by the Illinois Workers' Compensation Commission (IWCC) to lack coverage. If the employer is found to lack coverage, the Injured Workers' Benefit Fund (IWBF) may be liable for the claim, making the employer liable to reimburse the IWBF under Section 4(d) of the Act. Additionally, the employer may be liable for penalties of up to $500 per day for a first-time violation under the Act. 820 ILCS 305/4(d).

Employers, producers, and carriers therefore should ensure the carrier is fully knowledgeable about the extent of the employer's activity in Illinois before deciding whether to obtain coverage with Illinois as a primary or "other" state and consult with counsel if necessary. Furthermore, if operations begin in Illinois during the policy period, all steps required by the policy to secure coverage must be taken.

Separately, the Illinois Workers' Occupational Disease Act provides that "an employer [engaged primarily in the building and construction industry] shall make payments to its insurance carrier or group self-insurance fund, where applicable, based upon the premium rates of the situs where the work or project is located in Illinois." 820 ILCS 310/4 (5a-1). Under this Act, employers can be liable for penalties of up to $1,000 per day, not to exceed $50,000. A construction industry employer whose policy lists Illinois in Section 3C, not Section 3A, may also be found liable under this provision.

For questions regarding this Company Bulletin, please direct inquiries to DOI.InfoDesk@Illinois.gov.