



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Labor and Training
DIVISION OF WORKERS' COMPENSATION
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Informational Letter 2005-06
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RHODE ISLAND WORKERS' COMPENSATION ACT
2005 LEGISLATIVE HIGHLIGHTS

The purpose of this letter is to bring to your attention the significant changes made during the 2005 legislative session that impact workers' compensation and/or the Rhode Island Workers' Compensation Act. This may not be a complete report of all legislation passed in 2005 regarding workers' compensation.

2005 -- S 699 Substitute A

Workers' Compensation Act:

28-29-2. Definitions. -- (4) "Employee" was amended to include shareholders and directors of a corporation and members of an LLC if they have entered into employment with the company.

"General or special employer" -- (6) (iv) Effective **January 1, 2006**, if a company is using leased or temporary employees, the company must obtain an insurer-generated insurance coverage certificate indicating that the temporary agency or leasing company has RI workers' compensation coverage and employer liability coverage. If the temporary agency or leasing company fails to have and maintain coverage, it will result in the client company being deemed the employer for all purposes of workers' compensation. It also provides that insurer will send notice of insurance cancellation or failure to renew to both the Department of Labor and Training and the certificate holders.

- 28-29-17 Waiver of common law rights – Notice of common law right. -- Amended to afford managing members or members of a limited liability company, who have been determined to be employees, the availability to opt out of the WC Act. Section 28-29-19 addresses their opting back in.
- 28-33-17.3 Fraud and abuse. -- Addresses the issue of misrepresentation of an employee as a shareholder, director, officer of a corporation or partner for the purposes of premium avoidance. Also amended to clarify the entities and individuals subject to penalties and fines for the violation of this section or section 28-36-15.
- 28-33-18.3 Continuation of benefits – Partial incapacity. -- (a) Changes the date from July 1, 2003, to July 1, 2005, as it relates to the date of injury in association with the definition of material hindrance and the 312-week partial limitation.
- 28-36-15 Penalty for failure to secure compensation – Personal liability of corporate officers. -- Amended to clarify entities subject to penalties and fines for failure to secure workers' compensation coverage, as well as the personal liability aspect.
- 28-37-13. Payments into the fund by insurers and employers. -- Increases the minimum payment from \$50 to \$100. Removes language relative to the impact of a decrease in the rate from one year to the next.
- 42-16.1-12. Fraud prevention unit – Appointment – Duties – Qualifications. -- Eliminates the obligation of the Fraud and Compliance Unit to file an annual report separate and apart from the Department of Labor and Training annual report.

ALL OF THE ABOVE, EXCEPT WHERE NOTED, TAKE EFFECT AS
OF JULY 19, 2005