

A bill that makes some dramatic changes to the NC workers compensation insurance benefits has moved on from the Senate and is now on the Governor's desk awaiting her signature. I feel that for the most part, this bill will likely reduce the cost of workers compensation insurance for most restaurant owners as the general direction of these changes is to reduce the benefits that will be paid out to injured workers. But these changes do cut in both directions so the overall impact on restaurant owners will best be understood after it becomes law, which I assume it will.

This bill was possible due to the Republican controlled legislature that is the state of things at this time in NC. The business friendly republicans have forced the lawyers and the labor unions to give some ground. But you will see a few compromises in the changes that are being made.

Start first with the changes to the disability payments due an injured worker. This is a huge part of the workers compensation cost puzzle so any reduction here should filter its way down to slightly lower rates for restaurant owners in coming years. This new bill will cap disability benefits at 500 weeks. For insurance companies this cap will allow them to better plan their loss costs. This will bring NC in line with our neighboring states, Virginia and South Carolina, both of which have 500 week caps. Tennessee and Georgia both have caps of 400 weeks in their disability benefits for injured workers. There will be exceptions for the most severely injured workers such as the loss of both hands or for paralysis. These disabled workers will be able to qualify for extended compensation if they can prove that they have sustained a total loss of wage earning capacity. This change in benefits should certainly help keep rates lower for most restaurant owners in the long term.

Now let's take a look at the changes that may increase benefits and perhaps produce some upward pressure on the rates that you pay. The new bill will extend disability benefits to workers who are physically unable to continue the work that they were doing before they were injured and who have had to take a new job at lower pay. The bill will extend their benefits by allowing them to receive two thirds of the difference between their old pay and their new pay and do so now for up to 500 weeks. Previously this benefit only ran for 300 weeks. The bill also increases the benefits for dependents of a worker who is killed on the job or who dies from an occupational disease, from 400 to 500 weeks. In addition the burial expenses benefit for workers killed on the job will be increased from \$3500 to \$10,000.

A perhaps more disturbing change – depending on which side of the privacy issue you fall on, might be the changes in employer's access to the injured employees' medical records. The employer may now be able to speak to the employee's physician, but only after giving the

employee notice. The employee has a right to sit in on that meeting though. It remains to be seen if and how this may be abused by dishonest employers.

So what did the bill fail to do? Well I think they missed an opportunity to change the law that says those with less than 3 employees are not required to purchase and insurance policy for their employees. This rule makes little sense to me since an uninsured employer is still required to pay the claims themselves from their own pockets. But of course these small employers rarely have the financial assets needed to pay the claims that they owe to their more severely injured employees. These injured or disabled people then become wards of the state and we all must pay for them. I can't see any justification for keeping this rule in force when so many injured and maimed workers are now carrying around worthless judgments against their former employers. The bill should also have tackled the area of enforcement of the workers compensation policy buying rules. Our industrial commission needs to begin enforcing the laws regarding required workers compensation insurance for employers. We cannot continue to force the rule followers to pay for those who break the law.

If you would like help with your restaurant insurance, please call us, toll free, at 877-687-7557. Clinard Insurance Group insures more than 100 restaurants and would love to help you with your restaurant insurance questions.