ENGROSSED HOUSE
BILL NO. 1038

By: Settle, Bastin, Boyd (Laura), Hilliard, Hutchison, Mitchell and Satterfield of the House

and

Monson of the Senate

(workers' compensation - amending 14 sections in Title 85 - Workers' Compensation Act - amending sections in Titles 36, 47 and 74 - codification - effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85 O.S. 1991, Section 2.5, is amended to read as follows:

Section 2.5 ~~The~~ Unless required by federal law or regulation, the Workers' Compensation Act shall not apply to any person who is ~~providing~~:

1. Providing services in a medical care or social services program~~,~~ administered by the Department of Human Services;

2. An independent contractor licensed by the State Department of Rehabilitation Services; or ~~who is a~~

3. A participant in a work or training program, administered by the Department of Human Services~~, unless the Department is required by federal law or regulations to provide workers' compensation for such person~~ or the State Department of Rehabilitation Services.

This section shall not be construed to include nursing homes.

SECTION 2. AMENDATORY 85 O.S. 1991, Section 3, as last amended by Section 1, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1996, Section 3), is amended to read as follows:

Section 3. As used in the Workers' Compensation Act:

1. "Administrator" means the Administrator of workers' compensation as provided for in the Workers' Compensation Act;

2. "Contractor" means all prime and general contractors, subcontractors, independent contractors and persons engaged in contract labor who, through negotiations or competitive bidding, enter into contracts to furnish labor, materials, or both, and the required equipment to perform the contract for a fixed price, and who, in pursuit of independent business, undertake a job in whole or in part and retain substantial control of the method and manner of accomplishing the desired result, and who do not receive W2 forms indicating that taxes have been withheld from wages as required by federal and state laws relating to employees;

3. "Court" means the Workers' Compensation Court;

~~3.~~ 4. "Drive-away operations" include every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, or any combination thereof, with or without towing a privately owned vehicle;

5. "Employer", except when otherwise expressly stated, means a person, contractor, partnership, association, limited liability company, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association, corporation, or limited liability company, departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof, employing a person included within the term "employee" as herein defined;

~~4.~~ 6. "Employee" means any person engaged in the employment of any person, firm, limited liability company or corporation covered by the terms of the Workers' Compensation Act, and shall include workers associating themselves together under an agreement for the performance of a particular piece of work, in which event such persons so associating themselves together shall be deemed employees of the person having the work executed; provided, that if such associated workers shall employ a worker in the execution of such contract, then as to such employed worker, both the associated employees and the principal employer shall at once become subject to the provisions of the Workers' Compensation Act relating to independent contractors. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or more stock in the corporation are specifically excluded from the foregoing definition of "employee", and shall not be deemed to be employees as respects the benefits of the Workers' Compensation Act. Provided, a sole proprietor, member of a partnership, member of a limited liability company who owns at least ten percent (10%) of the capital of the limited liability company or any stockholder-employee of a corporation who owns ten percent (10%) or more stock in the corporation who does not so elect to be covered by a policy of insurance covering benefits under the Workers' Compensation Act, when acting as a subcontractor, shall not be eligible to be covered under the prime contractor's policy of workers' compensation insurance; however, nothing herein shall relieve the entities enumerated from providing workers' compensation insurance coverage for their employees. Sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or any stockholder-employees of a corporation who own ten percent (10%) or

more stock in the corporation may elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members or any or all stockholder-employees as employees, if otherwise qualified, by endorsement to the policy specifically including them under any policy of insurance covering benefits under the Workers' Compensation Act. When so included the sole proprietors, members of a partnership, members of a limited liability company or any or all stockholder-employees shall be deemed to be employees as respects the benefits of the Workers' Compensation Act. "Employee" shall also include any person who is employed by the departments, instrumentalities and institutions of this state and divisions thereof, counties and divisions thereof, public trusts, boards of education and incorporated cities or towns and divisions thereof. "Employee" shall also include a member of the Oklahoma National Guard while in the performance of duties only while in response to state orders and any authorized voluntary or uncompensated worker, rendering services as a fire fighter, peace officer or civil defense worker. Provided, "employee" shall not include any other person providing or performing voluntary service who receives no wages for the services other than meals, drug or alcohol rehabilitative therapy, transportation, lodging or reimbursement for incidental expenses. "Employee" shall also include a participant in a sheltered workshop program which is certified by the United States Department of Labor. "Employee" shall not include a person, commonly referred to as an owner-operator, who owns or leases a truck-tractor or truck for hire, if the owner-operator actually operates the truck-tractor or truck and if the person contracting with the owner-operator is not the lessor of the truck-tractor or truck. Provided however, an owner-operator shall not be precluded from workers' compensation coverage under the Workers' Compensation Act if the owner-operator

elects to participate as a sole proprietor. "Employee" shall not include a person engaged in drive-away operations;

~~5.~~ 7. "Employment" includes work or labor in a trade, business, occupation or activity carried on by an employer or any authorized voluntary or uncompensated worker rendering services as a fire fighter, peace officer or civil defense worker;

~~6.~~ 8. "Compensation" means the money allowance payable to an employee as provided for in the Workers' Compensation Act;

~~7.~~ 9. a. "Injury" or "personal injury" means only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally result therefrom and occupational disease arising out of and in the course of employment as herein defined. Provided, only injuries having as their source a risk not purely personal but one that is reasonably connected with the conditions of employment shall be deemed to arise out of the employment. Except in cases of cumulative trauma and occupational illness, after a claimant's employment has ended, a rebuttable presumption exists where the claimant has not filed a report of accident with the claimant's former employer during the employment or has not received any medical treatment for the complained of condition within ninety (90) days after the employment relationship has ended, that the claimant has not incurred a compensable injury. The presumption must be rebutted by a preponderance of the evidence.

b. "Injury" or "personal injury" includes heart-related or perivascular injury, illness or death ~~if~~ only if

the preponderant (51%) cause is resultant from stress in excess of that generally experienced by ~~a~~ an ordinary person in ~~the conduct of everyday living~~ a same or similar job. Such stress must arise out of and in the course of a claimant's employment. However, if the claimant has no known history of heart-related or perivascular injury or illness, the Court, in its discretion, may waive the preponderant (51%) cause requirement and award workers' compensation benefits even though subsequent evidence may show the heart-related or perivascular injury or illness was preponderantly (51%) caused by a preexisting condition.

c. "Injury" or "personal injury" shall not include mental injury that is unaccompanied by physical injury.

d. "Cumulative trauma" is defined as an injury resulting from a specific employment activity which is repetitive and continuous in nature, engaged in over a period of time, and arising out of and in the course of employment. Injury therefrom must be shown to be preponderantly (51%) due to the repetitive activity. Once a claimant knows, or a reasonable person in similar circumstances should know, that a job-related injury has been caused by cumulative trauma, the accidental injury has ripened for purposes of the statutory limitations and the period begins to run. Medical treatment for the condition creates a rebuttable presumption that the employee is aware of the condition and realizes the injury is job related. The presumption must be rebutted by a preponderance of the evidence;

~~8.~~ 10. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer;

~~9.~~ 11. "Insurance carrier" shall include stock corporations, reciprocal or interinsurance associations, or mutual associations with which employers have insured, and employers permitted to pay compensation, directly under the provisions of paragraph 4 of subsection A of Section 61 of this title;

~~10.~~ 12. "Occupational disease" means only that disease or illness which is due to causes and conditions characteristic of or peculiar to the particular trade, occupation, process or employment in which the employee is exposed to such disease;

~~11.~~ 13. "Permanent impairment" means any anatomical or functional abnormality or loss after reasonable medical treatment has been achieved, which abnormality or loss the physician considers to be capable of being evaluated at the time the rating is made. Except as otherwise provided herein, any examining physician shall only evaluate impairment in accordance with the latest publication of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" in effect at the time of the injury. The Physician Advisory Committee may, pursuant to Section 201.1 of this title, recommend the adoption of a method or system to evaluate permanent impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment". Such recommendation shall be made to the Administrator of the Workers' Compensation Court who may adopt the recommendation in part or in whole. The adopted method or system shall be submitted by the Administrator to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such method or system to evaluate permanent

impairment that shall be used in place of or in combination with the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Such method or system shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the adopted method or system to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves it in part. If adopted, permanent impairment shall be evaluated only in accordance with the latest version of the alternative method or system in effect at the time of injury. All evaluations shall include an apportionment of injury causation. However, revisions to the guides made by the American Medical Association which are published after January 1, 1989, and before January 1, 1995, shall be operative one hundred twenty (120) days after the last day of the month of publication. Revisions to the guides made by the American Medical Association which are published after December 31, 1994, may be adopted in whole or in part by the Administrator following recommendation by the Physician Advisory Committee. Revisions adopted by the Administrator shall be submitted by the Administrator to the Speaker of the House of Representatives and the President Pro Tempore of the Senate within the first ten (10) legislative days of a regular session of the Legislature. Such revisions shall be subject to disapproval in whole or in part by joint or concurrent resolution of the Legislature during the legislative session in which submitted. Revisions shall be operative one hundred twenty (120) days after the last day of the month in which the Administrator submits the revisions to the Legislature if the Legislature takes no action or one hundred twenty (120) days after the last day of the month in which the Legislature disapproves them in part. The examining

physician shall not follow the guides based on race or ethnic origin. The examining physician shall not deviate from said guides or any alternative thereto except as may be specifically provided for in the guides or modifications to the guides or except as may be specifically provided for in any alternative or modifications thereto, adopted by the Administrator of the Workers' Compensation Court as provided for in Section 201.1 of this title. These officially adopted guides or modifications thereto or alternative system or method of evaluating permanent impairment or modifications thereto shall be the exclusive basis for testimony and conclusions with regard to permanent impairment with the exception of paragraph 3 of Section 22 of this title, relating to scheduled member injury or loss; and impairment, including pain or loss of strength, may be awarded with respect to those injuries or areas of the body not specifically covered by said guides or alternative to said guides;

~~12.~~ 14. "Permanent total disability" means incapacity because of accidental injury or occupational disease to earn any wages in any employment for which the employee may become physically suited and reasonably fitted by education, training or experience, including vocational rehabilitation; loss of both hands, or both feet, or both legs, or both eyes, or any two thereof, shall constitute permanent total disability;

~~13.~~ 15. "Permanent partial disability" means permanent disability which is less than total and shall be equal to or the same as permanent impairment;

~~14.~~ 16. "Maximum medical improvement" means that no further material improvement would reasonably be expected from medical treatment or the passage of time;

~~15.~~ 17. "Independent medical examiner" means a licensed physician authorized to serve as a medical examiner pursuant to Section 17 of this title;

~~16.~~ 18. a. "Certified workplace medical plan" means an organization of health care providers or any other entity, certified by the Commissioner of Health pursuant to Section 14.3 of this title, that is authorized to enter into a contractual agreement with a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, to provide medical care under the Workers' Compensation Act. Certified plans shall only include such plans which provide medical services and payment for services on a fee-for-service basis to medical providers and shall not include other plans which contract in some other manner, such as capitated or pre-paid plans.

b. If any insurer except, the State Insurance Fund, fails to contract with or provide access to a certified workplace medical plan, an insured, after sixty (60) days' written notice to its insurance carrier, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year, to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to its insurance carrier, for additional one-year periods if his or her insurer has not contracted with or provided access to a certified workplace medical plan.

c. If the State Insurance Fund fails to contract with at least three certified workplace medical plans, each covering at least fifty counties, then the insured, after sixty (60) days' written notice to the State Insurance Fund, shall be authorized to contract independently with a plan of his or her choice for a period of one (1) year to provide medical care under the Workers' Compensation Act. The insured shall be authorized to contract, after sixty (60) days' written notice to the State Insurance Fund, for additional one-year periods if the State Insurance Fund has not contracted with or fails to continue contracts with at least three certified workplace medical plans covering at least fifty counties; and

~~17.~~ 19. "Treating physician" or "attending physician" means the licensed physician who has provided or is providing medical care to the injured employee.

SECTION 3. AMENDATORY 85 O.S. 1991, Section 3.4, as amended by Section 3, Chapter 349, O.S.L. 1993 (85 O.S. Supp. 1996, Section 3.4), is amended to read as follows:

Section 3.4 A. All claims for any compensation or benefits under the Workers' Compensation Act shall be commenced with the filing of a notice of injury with the Administrator. All claims filed for workers' compensation benefits shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the claimant and ~~his~~ the claimant's agent, if any. Any person who signs this statement or causes another to sign this statement knowing the statement to be false shall be guilty of perjury. An individual who signs on behalf of a claimant may be presumed to have the authorization of the claimant and to be acting at ~~his~~ the claimant's direction. All answers and defenses to claims or other documents filed on behalf of a respondent or the

respondent's insurer in a workers' compensation case shall contain a statement that all matters stated therein are true and accurate, and shall be signed by the respondent, the insurer, or their respective agents, if any. Any person who signs such a statement or causes another to sign such a statement, knowing the statement to be false, shall be guilty of perjury. An individual who signs on behalf of a respondent, its insurer, or its agent may be presumed to have the authorization of the respondent, its insurer and agent to be acting at their direction. All matters pertaining to such claims shall be presented to the Administrator until such time as the Administrator is notified in writing by a party that there is a controverted issue that cannot be resolved by the parties or that the parties have received an agreed final order from the Court. The Administrator shall, within seven (7) days of the receipt of such notification, set the matter for hearing at the earliest available time to be heard by the Court in the appropriate judicial district as provided in Section 3.5 of this title. The Administrator shall assign a member of the Court to hear a docket in each judicial district of the state at least once each calendar month when there has been a request for a hearing in the judicial district. The Administrator shall assign Judges to the state judicial districts on a rotating basis for the purpose of holding prehearing conferences and hearing cases. At the request of either party, a prehearing conference shall be held before the member of the Court assigned to the case within forty-five (45) days of the filing of a claimant's request for a hearing. The purpose of the prehearing conference shall be to mediate and encourage settlement of the case or determine issues in dispute. The Court shall be vested with jurisdiction over all claims filed pursuant to the Workers' Compensation Act. The Court shall determine the lawfulness of any claim for compensation under the Workers' Compensation Act based on the weight of evidence; provided, however, any claim, and subsequent disability, that has as

its source a physical condition resulting from incremental damage or injury or a gradual deterioration of physical health, which is caused by a condition arising out of and in the course of employment, must be proven by a preponderance of the evidence presented to the Court.

B. All claims so filed shall be heard by the Judge sitting without a jury. All petitions for final orders or awards filed pursuant to the provisions of Section 84 of this title must be approved by the Court having jurisdiction before a final order or award may be entered. All matters relating to a claim for benefits under the Workers' Compensation Act shall be filed with the Administrator.

C. In all proceedings under the Workers' Compensation Act, the burden of proof shall be on the claimant to establish, by a preponderance of the evidence, the claimant's right to an award of compensation and to prove the various conditions upon which the claimant's right depends.

D. The provisions of the Workers' Compensation Act shall be applied impartially to both claimants and respondents.

E. The acceptance of any workers' compensation benefits payable under the jurisdiction of any other state by the claimant shall not be an election by the claimant to proceed in another state.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.10 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. Mediation shall be available to any party to a dispute arising pursuant to the provisions of the Workers' Compensation Act, subject to the limitation provisions of Section 14.3 of Title 85 of the Oklahoma Statutes and except for disputes against the Special Indemnity Fund.

B. Unless ordered by the Court, mediation shall be voluntary, and shall not be conducted without the consent of both parties.

1. Mediation is not a prerequisite to the commencement of a claim for benefits, pursuant to the provisions of the Workers' Compensation Act.

2. Mediation can be utilized at any point during the pendency of a claim, including prior to the filing of Notice of Accidental Injury and Claim for Compensation.

3. A request for mediation or consent to mediate does not invoke the jurisdiction of the Workers' Compensation Court.

C. No sanction or penalty may be imposed by the counselor, the Administrator, or any judge of the Court if a party refuses to mediate.

D. Prior to commencement of mediation, either party to a dispute may notify the office of the Workers' Compensation Counselor that the party requests mediation.

1. The request for mediation shall be made in writing to the counselor's office.

2. The party requesting mediation shall inform the counselor of the issues in dispute, and the name, address, and telephone number of the opposing party or insurance company, if known. If the dispute involves a certified workplace medical plan, the requesting party shall provide the name and phone number of the contact person for the plan.

E. Once a request has been made, the counselor's office shall contact the opposing party. If the opposing party does not wish to participate in mediation, the requesting party shall be notified of the refusal.

F. If both parties agree to mediation, they shall enter into a written consent to mediate on a form provided by the counselor's office. The form shall contain a statement informing the parties of their rights and obligations and of the confidentiality of the proceedings. This written consent shall be signed by both parties

to the dispute and shall be submitted to the counselor's office before the selection of a mediator is made.

G. Upon receipt of the consent form, the counselor's office shall provide the parties with a list of certified mediators. The parties shall agree to a mediator, but if agreement cannot be reached, each party shall submit two names from the list to the counselor's office, and the selection made by the counselor's office will be binding on the parties. The Court shall develop rules and procedures to implement this process. The Administrator shall provide the necessary forms to insure uniformity and appropriate identification of the disputes in question prior to the actual mediation process beginning.

H. The judges of the Court shall be responsible for certifying those persons who are eligible and qualified to serve as mediators. An individual may be certified as a mediator if:

1. The applicant has completed twenty (20) hours of formal classroom training, which shall include training in the mediation process, the role and responsibilities of the mediator and participants, ethical considerations, listening skills, negotiations, communications, and working toward an agreement. The training shall also include other requirements as specified by the Court. The cost of the training shall be paid by the applicant;

2. The applicant has completed a minimum of two observations of mediation sessions with any certified mediator approved by any state court or federal court program. The applicant shall conductan actual mediation session while being observed by a certified mediator; and

3. The applicant has signed an agreement to be bound by the ethical standards set forth in Chapter 37, Appendix A of Title 12 of the Oklahoma Statutes, "Code of Professional Conduct for Mediators".

I. Each certified mediator shall remain on the list for five (5) years, unless removed. Mediators shall be required to complete at least six (6) hours of continuing education per two-year period in the areas of mediation and workers' compensation. This continuing education requirement shall be in addition to any other such general requirement which may be required by the Oklahoma State Bar Association. Cost of continuing education is to be borne by the applicant.

J. Unless provided pro bono, mediators shall be compensated at the rate or fee as determined by the mediator and the respondent. Unless ordered by the Court, the cost of mediation shall be paid by the respondent or its insurance carrier. If mediation is ordered by the Court, the Court shall determine which party pays the cost of the mediation.

K. All parties and counsel shall participate in good faith. Each party to the dispute, including insurance companies, shall attend the mediation sessions with full settlement authority. A judge of the Court may impose sanctions on any party who fails to attend the sessions, absent good cause, or who fails to participate in good faith.

L. Mediation is confidential and no part of the proceeding shall be considered a matter of public record. Recommendations of the mediator are not binding unless the parties enter into a settlement agreement. If an agreement is not reached, the results and statements made during the mediation are not admissible in any following proceeding. No mediator shall be liable for civil damages for any statement or decision made in the process of mediating or settling a dispute.

M. Mediation may also be ordered in any pending case at the sole discretion of the judge of the Court assigned to hear the case. Parties ordered to mediate shall select a mediator from the list of certified mediators and submit the name to the Court within ten (10)

days from the date that the parties are ordered to submit to mediation by the Court. If the parties are unable to agree, the judge ordering mediation shall select a certified mediator. If the case is resolved by mediation, the final settlement shall be concluded in the manner provided in Section 26 of Title 85 of the Oklahoma Statutes.

N. If the mediated dispute is voluntarily agreed to by both parties and resolved, any final settlement of the action shall include a consent to mediation form and shall be completed upon the filing of a Joint Petition or an Agreement Between Employer and Employee as to Fact with Relation to an Injury and Payment of Compensation. The Administrator may require parties participating in mediation to provide statistical information, as the Administrator deems appropriate.

SECTION 5. AMENDATORY 85 O.S. 1991, Section 11, as last amended by Section 2, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1996, Section 11), is amended to read as follows:

Section 11. A. Every employer subject to the provisions of the Workers' Compensation Act shall pay, or provide as required by the Workers' Compensation Act, compensation according to the schedules of the Workers' Compensation Act for the disability or death of an employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of employment, without regard to fault as a cause of such injury, and in the event of disability only, except as follows:

1. An injury occasioned by the willful intention of the injured employee to bring about injury to himself or another;

2. Except for innocent victims, an injury caused by a prank, horseplay, or similar irresponsible behavior;

3. An injury resulting directly from the willful failure of the injured employee to use a guard or protection against accident

furnished for use pursuant to any statute or by order of the Commissioner of Labor; ~~and~~

~~3.~~ 4. An injury resulting directly from the use or abuse of alcohol, illegal drugs or chemicals, or the abuse of prescription drugs; provided, this paragraph shall only apply when the use or abuse rendered the employee incapable of acting in the manner in which an ordinarily prudent and cautious person, in full possession of his or her faculties, and using reasonable care, would have acted at the time of the injury; and

5. An injury resulting directly from a preexisting condition about which the employee knowingly and willfully provided false or misleading information to the employer prior to the occurrence of the injury.

B. Liability of any person, firm, or corporation having an interest in the subject matter, employers and contracting employers, general or intermediate, for compensation under the Workers' Compensation Act, when other than the immediate employer of the injured employee, shall be as follows:

1. The independent contractor shall, at all times, be liable for compensation due to his direct employees, or the employees of any subcontractor of such independent contractor, and the principal employer shall also be liable in the manner hereinafter specified for compensation due all direct employees, employees of the independent contractors, subcontractors, or other employees engaged in the general employer's business; provided however, if an independent contractor relies in good faith on proof of a valid workers' compensation insurance policy issued to a subcontractor of the independent contractor or on proof of a Certification of Non-Coverage Under the Workers' Compensation Act filed by the subcontractor with the Commissioner of Labor under Section 415.1 of Title 40 of the Oklahoma Statutes, then the independent contractor shall not be liable for injuries of any employees of the

subcontractor. Provided further, such independent contractor shall not be liable for injuries of any subcontractor of the independent contractor unless an employer-employee relationship is found to exist by the Workers' Compensation Court despite the filing of a Certification of Non-Coverage Under the Workers' Compensation Act.

2. The person entitled to such compensation shall have the right to recover the same directly from his or her immediate employer, the independent contractor or intermediate contractor, and such claims may be presented against all such persons in one proceeding. If it appears in such proceeding that the principal employer has failed to require ~~a~~ compliance with the Workers' Compensation Act of this state, by ~~his or their~~ the independent contractor, then such employee may proceed against such principal employer without regard to liability of any independent, intermediate or other contractor; provided, however, if a principal employer relies in good faith on proof of a valid workers' compensation insurance policy issued to an independent contractor of the employer or to a subcontractor of the independent contractor or on proof of a Certification of Non-Coverage Under the Workers' Compensation Act filed by the independent contractor or subcontractor with the Commissioner of Labor under Section 415.1 of Title 40 of the Oklahoma Statutes, then the principal employer shall not be liable for injuries of any employees of the independent contractor or subcontractor. Provided further, such principal employer shall not be liable for injuries of any independent contractor of the employer or of any subcontractor of the independent contractor unless an employer-employee relationship is found to exist by the Workers' Compensation Court despite the filing of a Certification of Non-Coverage Under the Workers' Compensation Act. Provided, however, in any proceeding where compensation is awarded against the principal employer under the provisions hereof, such award shall not preclude the principal employer from recovering

the same, and all expense in connection with said proceeding from any independent contractor, intermediate contractor or subcontractor whose duty it was to provide security for the payment of such compensation, and such recovery may be had by supplemental proceedings in the cause before the Court or by an independent action in any court of competent jurisdiction to enforce liability of contracts.

3. Where work is performed on a single family residential dwelling or its premises occupied by the owner, or for a farmer whose cash payroll for wages, excluding supplies, materials and equipment, for the preceding calendar year did not exceed One Hundred Thousand Dollars ($100,000.00), such owner or farmer shall not be liable for compensation under the Workers' Compensation Act. Such owner or farmer shall not be liable to the employee of any independent contractor or subcontractor, where applicable, or the farmer's own employee.

4. Where compensation is payable for an occupational disease or cumulative trauma, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease or trauma and the insurance carrier, if any, on the risk when such employee was last so exposed under such employer, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, provided, however, that in the case of silicosis or asbestosis, the only employer and insurance carrier liable shall be the last employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (SiO 2) dust on each of at least sixty (60) days or more, and the insurance carrier, if any, on the risk when the employee was last so exposed under such employer.

SECTION 6. AMENDATORY 85 O.S. 1991, Section 14, as last amended by Section 3, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1996, Section 14), is amended to read as follows:

Section 14. A. 1. The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus as may be necessary after the injury. The attending physician shall supply the injured employee and the employer with a full examining report of injuries found at the time of examination and proposed treatment, this report to be supplied within seven (7) days after the examination; also, at the conclusion of the treatment the attending physician shall supply a full report of ~~his~~ the physician's treatment to the employer of the injured employee.

2. The attending physician who renders treatment to the employee at any time shall promptly notify the employee and employer or the employer's insurer in writing after the employee has reached maximum medical improvement and is released from active medical care. If the employee is capable of returning to modified light duty work, the attending physician shall promptly notify the employee and the employer or the employer's insurer thereof in writing and shall also specify what restrictions, if any, must be followed by the employer in order to return the employee to work. In the event the attending physician provides such notification to the employer's insurer, the insurer shall promptly notify the employer.

B. The employer's selected physician shall have the right to examine the injured employee. A report of such examination shall be furnished the injured employee within seven (7) days after such examination.

C. If the employer fails or neglects to provide the same within a reasonable time after knowledge of the injury, the injured employee, during the period of such neglect or failure, may do so at the expense of the employer; provided, however, that the injured employee, or another in the employee's behalf, may obtain emergency treatment at the expense of the employer where such emergency

treatment is not provided by the employer. Unless a self-insured employer, group self-insurance association plan, or an employer's workers' compensation insurance carrier has previously contracted with a certified workplace medical plan, the employee may select a physician of the employee's choice to render necessary medical treatment, at the expense of the employer. The attending physician so selected by the employee shall notify the employer and/or the insurance carrier within seven (7) days after examination or treatment was first rendered. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, has previously contracted with a certified workplace medical plan, the employee shall have two choices:

1. a. The employee shall have the right, for each work-related injury, to select any physician from a list of physicians provided by the employee at the time of making an election not to participate in the certified workplace medical plan. The list shall consist only of physicians who have:

(1) maintained the employee's medical records prior to an injury and have a documented history of treatment with the employee prior to an injury, or

(2) maintained the medical records of an immediate family member of the employee prior to an injury and have a documented history of treatment with an immediate family member of the employee prior to an injury. For purposes of this division, immediate family member means the employee's

spouse, children, parents, stepchildren, and stepparents.

b. An attending physician selected under this paragraph must agree to comply with all the rules, terms, and conditions of the certified workplace medical plan. An attending physician selected under this paragraph may refer the employee to a physician outside the certified workplace medical plan only if the physician to whom the employee is referred agrees to comply with all the rules, terms, and conditions of the certified workplace medical plan; or

2. The employee shall elect to participate in the certified workplace medical plan.

D. The term "physician" as used in this section shall mean any person licensed in this state as a medical doctor, chiropractor, podiatrist, dentist, osteopathic physician or optometrist. The Court may accept testimony from a psychologist if the testimony is made under the direction of a medical doctor. Provided that after November 1, 1997, nothing within this section shall be construed to permit any physician, other than a physician who has submitted written or oral medical testimony in a proceeding under the Workers' Compensation Act prior to November 1, 1997, from submitting written or oral medical testimony in any proceeding under the Workers' Compensation Act on any issue outside of the customary areas of expertise for which the physician is permitted to practice pursuant to the physician's license. If an injured employee should die, whether or not the employee has filed a claim, that fact shall not affect liability for medical attention previously rendered, and any person or persons entitled to such benefits may enforce charges therefor as though the employee had survived.

E. Whoever renders medical, surgical or other attendance or treatment, nurse and hospital service, medicine, crutches and

apparatus, or emergency treatment, may submit such charges and duration of treatment to the Administrator of the Court for review in accordance with the rules of the Administrator. Such charges and duration of treatment shall be limited to the usual, customary and reasonable charges and duration of treatment as prescribed and limited by a schedule of fees and treatment for all medical providers to be adopted, after notice and public hearing, by the Administrator. Said fee and treatment schedule shall be based on the usual, customary and reasonable medical charges of health care providers in the same trade area for comparable treatment of a person with similar injuries and the duration of treatment prevailing in this state for persons with similar injuries. The fee and treatment schedule shall be reviewed biennially by the Administrator and, after such review, and notice and public hearing, the Administrator shall be empowered to amend or alter said fee and treatment schedule to ensure its adequacy; provided, however, the fee and treatment schedule shall not be amended or altered until January 1, 1996, except to require the utilization of the latest Current Procedural Terminology (CPT) codes as published by the American Medical Association or to provide for the reduction of charges or duration of treatment. Before April 1, 1995, the Administrator shall adopt a new fee and treatment schedule to be effective no later than January 1, 1996, based on a relative value system which weights professional medical services based on the time, skill, complexity, intensity, severity of illness, patient risk, and medicolegal risk to the medical provider, with conversion factors appropriate to the State of Oklahoma. To the extent practicable, the new fee and treatment schedule shall result in a net projected savings system-wide of not less than five percent (5%). The Administrator's review of medical and treatment charges pursuant to this section shall be conducted pursuant to the fee and treatment schedule in existence at the time the medical care or

treatment was provided. The order of the Administrator approving medical and treatment charges pursuant to this section shall be enforceable by the Court in the same manner as provided in the Workers' Compensation Act for the enforcement of other compensation payments. Any party feeling aggrieved by the order, decision or award of the Administrator shall, within ten (10) days, have the right to request a hearing on such medical and treatment charges by a judge of the Workers' Compensation Court. The judge of the Court may affirm the decision of the Administrator, or reverse or modify said decision only if it is found to be contrary to the fee and treatment schedule existing at the time the said medical care or treatment was provided. The order of the judge shall be subject to the same appellate procedure set forth in Section 3.6 of this title for all other orders of the Court. The right to recover charges for every type of medical care for personal injuries arising out of and in the course of covered employment as herein defined, shall lie solely with the Workers' Compensation Court, and all jurisdiction of the other trial courts of this state over such action is hereby abolished. The foregoing provision, relating to approval and enforcement of such charges and duration of treatment, shall not apply where a written contract exists between the employer or insurance carrier and the person who renders such medical, surgical or other attendance or treatment, nurse and hospital service, or furnishes medicine, crutches or apparatus.

F. The Court or Administrator shall have authority on application of employee or employer or its insurance carrier to order a change of physicians at the expense of the employer when, in its judgment, such change is desirable or necessary; provided, the employer shall not be liable to make any of the payments provided for in this section, in case of contest of liability, where the Court shall decide that the injury does not come within the provisions of the Workers' Compensation Act.

G. If the employee chooses a physician for treatment and subsequently changes physicians without the approval of the Court or Administrator, or without agreement of the parties, the maximum liability of the employer for the aggregate expenses of all such subsequent physicians shall be Five Hundred Dollars ($500.00). Provided, the limitations shall not apply to referrals by the treating physician for treatment or diagnostic procedures.

H. A request for continuing medical maintenance supervised by a claimant's attending physician may be filed with the Administrator by an interested party at any time after the date of injury, but not later than sixty (60) days from the date of the final determination that permanent partial or permanent total disability benefits are payable to the employee.

I. Any party may request the appointment of a Medical Case Manager at any time during the pendency of the action, but not less than thirty (30) days before a hearing. A request for appointment which is contested shall be supported by the testimony of a licensed physician as defined in subsection D of this section. If the parties are unable to select a Medical Case Manager for any reason, the Court shall make the selection. The Court, on it own motion, may appoint a Medical Case Manager. In all cases, the appointment of a Medical Case Manager remains discretionary with the Court. The following shall apply to all selections or appointments:

1. The Medical Case Manager shall include licensed physicians, registered nurses, licensed practical nurses, and Certified Rehabilitation Counselors; and

2. The Court may not accept medical opinions from a nonphysician Medical Case Manager if there is an objection by either side. The parties may stipulate to the introduction of a nonphysician Medical Case Manager's testimony if such testimony is relied upon by a licensed physician whose report or testimony is received in evidence.

SECTION 7. AMENDATORY Section 24, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994, as last amended by Section 4, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1996, Section 14.2), is amended to read as follows:

Section 14.2 A. If a self-insured employer, group self-insurance association plan, an employer's workers' compensation insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund, has contracted with a workplace medical plan that is certified by the Commissioner of Health as provided in Section 14.3 of this title, an employee shall exercise the election for which provision is made in subsection C of Section 14 of this title. If a self-insured employer approved by the Workers' Compensation Court has in force a collective bargaining agreement with its employees, the certified workplace medical plan shall be selected with the approval of both parties signatory to the collective bargaining agreement. Notwithstanding any other provision of law, those employees who are subject to such certified workplace medical plan shall receive medical treatment in the manner prescribed by the plan.

B. Qualified employers shall, when a contract of employment is made ~~or on~~ and prior to the annual open enrollment date for the insurer's certified workplace medical plan, provide the employee with written notice of and the opportunity to ~~enroll in the plan or to indicate the employee's desire to select a physician pursuant to paragraph 1 of~~ make the election for which provision is made in subsection C of Section 14 of this title. The written notice must be given by the employer in the form and manner prescribed by the Administrator. The election must be made ~~in writing~~ on the form specified in subsection C of this section and must be signed by the employee:

1. Within thirty (30) days of employment;

2. Within thirty (30) days after an employee receives notice that a self-insured employer, group self-insurance association plan, or an employer's workers' compensation insurance carrier ~~implements~~ has implemented a certified workplace medical plan; or

3. On or prior to the annual open enrollment date of the certified workplace medical plan.

~~B.~~ C. 1. If an employee elects not to enroll in the certified workplace medical plan, the employee shall, on the election form, provide a list of physicians who meet the requirements set forth in paragraph 1 of subsection C of Section 14 of this title. The employee's list of physicians may be updated on the election form made available to the employee prior to the annual open enrollment date of the certified workplace medical plan.

2. Procedures ~~and forms for enrollment shall be provided by the self-insured employer, group self-insurance association plan, insurance carrier or an insured, which shall include any member of an approved group self-insured association, policyholder or public entity, regardless of whether such entity is insured by the State Insurance Fund~~ and the form for making the election for which provision is made in subsection C of Section 14 of this title shall be prescribed by the Administrator; however, the election form shall:

a. be provided to the employee at least thirty (30) days prior to the date when the employee must make the election,

b. fully inform the employee of the employee's right to participate or not to participate in the certified workplace medical plan and the consequences of such election insofar as the availability of medical care is concerned,

c. fully inform the employee that the employee cannot be discharged by the employer because the employee has in good faith elected to participate or not to participate in the certified workplace medical plan, and

d. provide adequate space for the employee to list physicians, by category of physician as specified in subsection D of Section 14 of this title, who meet the requirements set forth in paragraph 1 of subsection C of Section 14 of this title.

D. The burden for notification of an employee's enrollment in a certified workplace medical plan shall be the employer's. After enrollment, an employee shall seek treatment under the certified workplace medical plan for one (1) calendar year. The employee may opt out of the plan, effective on the next annual open enrollment date only if the employee is changing to a physician selected pursuant to the requirements of paragraph 1 of subsection C of Section 14 of this title. However, if the date of the injury falls under a period of enrollment in a certified workplace medical plan, treatment must be rendered under the certified workplace medical plan treatment contract.

E. The provisions of this section shall not preclude ~~the~~:

1. An employee from petitioning the Workers' Compensation Court or the Administrator of the Workers' Compensation Court for a change of attending physician within the certified workplace medical plan or for a change of physician outside the plan, if the physician agrees to comply with ~~all the rules, terms and conditions~~ the fee-for-service payment provisions of the certified workplace medical plan~~. Nor shall the provisions of this section preclude an~~; or

2. An employee from seeking emergency medical treatment as provided in Section 14 of this title.

F. The provisions of this section shall not apply to treatment received by an employee for an accepted accidental injury or occupational disease for which treatment began prior to November 4, 1994.

SECTION 8. AMENDATORY 85 O.S. 1991, Section 16, as last amended by Section 26, Chapter 1, Second Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 16), is amended to read as follows:

Section 16. A. An employee who has suffered an accidental injury or occupational disease covered by the Workers' Compensation Act shall be entitled to prompt and reasonable physical rehabilitation services. When, as a result of the injury, the employee is unable to perform the same occupational duties ~~he~~ the employee was performing prior to the injury, ~~he shall~~ the employee may be entitled to such vocational rehabilitation services provided by an area state-supported vocational-technical school, a public vocational skills center or public secondary school offering vocational-technical education courses, or a member institution of The Oklahoma State System of Higher Education, which ~~shall~~ may include retraining and job placement so as to restore ~~him~~ the employee to gainful employment. No person shall be adjudicated to be permanently and totally disabled unless first having been evaluated as to the practicability of restoration to gainful employment through vocational rehabilitation services or training. If an employee claiming permanent total disability status unreasonably refuses to be evaluated or to accept vocational rehabilitation services or training, permanent total disability benefits shall not be awarded during the period of such refusal, and the employee shall be limited to permanent partial disability benefits only. If an employee accepts permanent partial disability benefits after such refusal, the employee shall not be entitled to permanent total disability benefits unless a change of condition is

subsequently established. The Administrator shall promulgate rules governing notice to an injured employee of the right to receive vocational rehabilitation. The cost of the evaluation shall be paid by the employer. Following the evaluation, if the employee refuses the services or training ordered by the Court, or fails to complete in good faith the vocational rehabilitation training ordered by the Court, then the cost of the evaluation and services or training rendered shall be deducted from any award of benefits to the employee which remains unpaid by the employer. If rehabilitation services are not voluntarily offered by the employer and accepted by the employee, the judge of the Court may on ~~his~~ the judge's own motion, or if requested by a party may, after affording all parties an opportunity to be heard, refer the employee to a qualified physician or facility for evaluation of the practicability of, need for and kind of rehabilitation services or training necessary and appropriate in order to restore the employee to gainful employment. Upon receipt of such report, and after affording all parties an opportunity to be heard, the Court shall order that any rehabilitation services or training, recommended in the report, or such other rehabilitation services or training as the Court may deem necessary, provided the employee elects to receive such services, shall be provided at the expense of the employer. Except as otherwise provided in this subsection, refusal to accept rehabilitation services by the employee shall in no way diminish any benefits allowable to an employee.

B. Vocational rehabilitation services or training shall not extend for a period of more than fifty-two (52) weeks. This period may be extended for an additional fifty-two (52) weeks or portion thereof by special order of the Court, after affording the interested parties an opportunity to be heard. A request for vocational rehabilitation services or training may be filed with the Administrator by an interested party at any time after the date of

injury but not later than sixty (60) days from the date of the final determination that permanent partial disability benefits are payable to the employee.

C. Where rehabilitation requires residence at or near the facility or institution which is away from the employee's customary residence, reasonable cost of his board, lodging, travel, tuition, books and necessary equipment in training shall be paid for by the insurer in addition to weekly compensation benefits to which the employee is otherwise entitled under the Workers' Compensation Act.

D. During the period when an employee is actively participating in a retraining or job placement program for purposes of evaluating permanent total disability status, the employee shall be entitled to receive benefits at the same rate as the employee's temporary total disability benefits computed pursuant to Section 22 of this title. No attorney fees shall be awarded or deducted from such benefits received during this period. All tuition related to vocational rehabilitation services shall be paid by the employer or the employer's insurer on a periodic basis directly to the educational facility attended by the employee.

SECTION 9. AMENDATORY 85 O.S. 1991, Section 26, as amended by Section 30, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 26), is amended to read as follows:

Section 26. A. The Administrator shall provide printed notice forms to be used by the injured employee. Notice of injury filed by the employee with the Administrator shall be verified subject to the laws of perjury of this state and shall be styled: In re: Claim of the _____ (the name of the employee) and shall include in addition to any other requirements the following information:

1. The name and social security number of the employee;

2. The name of the employer;

3. The judicial district of the county of residence of the employee at the time of the injury;

4. The address of the principal place of business of the employer;

5. The judicial district of the county where the injury occurred; and

6. The judicial district of the county where the injured employee wants the claim docketed.

B. Any time after the expiration of the first three (3) days of disability on the part of the injured employee, a claim for compensation may be presented to the Administrator. If the employer and the injured employee shall reach a final agreement as to the facts with relation to an injury, and the resulting disability for which compensation is claimed under the Workers' Compensation Act, a memorandum of such agreement, in form as prescribed by the Administrator, signed by both the employer and employee, and approved by the Court shall be filed by the employer with the Administrator. In the absence of fraud this agreement shall be deemed binding upon the parties thereto. Such agreement shall be approved by the Court only when the terms conform to the provisions of the Workers' Compensation Act. The Court shall have full power and authority to determine all questions in relation to payment of claims for compensation under the provisions of the Workers' Compensation Act. The Court shall make, or cause to be made, such investigation as it deems necessary, and upon application of either party shall order a hearing, and as soon as practicable, after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award determining such claim for compensation, and file the same in the office of the Administrator, together with the statement of its conclusion of fact and rulings of law. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The

decision of the Court shall be final as to all questions of fact, and except as provided in Section 3.6 of this title, as to all questions of law.

C. ~~A good faith effort shall be made on the part of any~~ An insurance carrier, the State Insurance Fund, or group self-insured plan ~~to~~ shall notify an insured employer of the possibility of, and/or terms of, any settlement of a workers' compensation case pursuant to this section. Written comments or objections to settlements shall be filed with the Workers' Compensation Court and periodically shared with the management of the applicable insurer. A written notice shall be made to all policyholders of their right to ~~a good faith effort by their insurer to notify them~~ notification by their insurer of any proposed settlement, if the policyholder so chooses.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 26.1 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. Every employer subject to the provisions of the Workers' Compensation Act shall be permitted to participate in any claim for compensation or benefits commenced by a claimant, wherein the employer is named as a party or joined as a party as follows:

1. An employer, including a representative of any corporate entity or a representative of a self-insured employer shall have the right to be present in person and by counsel at all hearings before the Court;

2. The employer shall have the right to present relevant evidence relating to claims at all hearings before the Court, subject to the evidentiary and procedural requirements set forth in the Rules of the Workers' Compensation Court and the provisions of the Workers' Compensation Act;

3. Any employer which has reason to believe that a person has engaged in or is engaging in an act or practice that violates any

workers' compensation fraud statute shall immediately notify the Workers' Compensation Fraud Unit of the Office of the Attorney General, subject to the provisions of subsection C of Section 18m-1 of Title 74 of the Oklahoma Statutes and other applicable laws;

4. The employer shall have the right to contest the compensability of any claim, even if the insurance carrier, State Insurance Fund, or a self-insurance association admits liability, subject to any existing contract between an employer and its carrier, the State Insurance Fund, or a self-insurance association, and subject to Section 30 of Title 85 of the Oklahoma Statutes, the Rules of the Workers' Compensation Court, and other applicable law;

5. The employer shall have the right to receive notice of any hearing relating to the resolution of a claim from its insurance carrier, the State Insurance Fund or a self-insurance association of which it is a member, subject to subsection C of Section 26 of Title 85 of the Oklahoma Statutes; and

6. The employer shall have the right to report to the appropriate regulatory authority the failure of an insurance carrier, the State Insurance Fund, or a self-insurance association to provide workplace safety services in accordance with Section 61.2 of this title and Section 6701 of Title 36 of the Oklahoma Statutes.

B. The rights enumerated in this section shall not be construed to conflict with any applicable law. The rights enumerated in this section shall be considered as supplementing all other rights any employer may have contained in the Workers' Compensation Act, the Rules of the Workers' Compensation Court, and any other applicable law.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 27.2 of Title 85, unless there is created a duplication in numbering, reads as follows:

The medical records for all previous relevant or contributory injuries shall be open for review by the insurance carrier, the

State Insurance Fund, the group self-insurance plan, or self-insured employer involved in the claim for compensation pursuant to the provisions of the Workers' Compensation Act.

SECTION 12. AMENDATORY 85 O.S. 1991, Section 41, as amended by Section 9, Chapter 294, O.S.L. 1992 (85 O.S. Supp. 1996, Section 41), is amended to read as follows:

Section 41. A. Awards for permanent partial disability under Section 22 of this title shall be made for the total number of weeks of compensation which the Court shall find the claimant will be entitled to receive, less any sums previously paid which the Court may find to be a proper credit thereon. When the award becomes final, the whole sum or any unpaid portion thereof shall operate as a final adjudicated obligation and payment thereof may be enforced by the claimant or in case of ~~his~~ the claimant's death, by the surviving beneficiary entitled to the proceeds as provided in Section 48 of this title. All awards shall be paid by periodic installments as determined by the Court. The accrual date for purposes of determining the date on which the permanent partial disability payments begin shall be based upon the date the claimant reaches maximum medical improvement. Whenever an injured person receives an award for permanent partial disability, permanent total disability or death benefits, the injured employee or claimant, for good cause shown, may have the award commuted to a lump-sum payment by permission of the Court. This authorization for commutation shall not be applicable to attorney fees in permanent total disability cases. The lump-sum payment shall not exceed Four Thousand Dollars ($4,000.00) or twenty-five percent (25%) of the total award, whichever is the larger sum. Attorney fees shall be based upon not more than a five-hundred-week award and, with respect to attorney fees in a permanent total disability case, shall be paid periodically. Such commutation shall be in addition to any commutation to a lump-sum payment for legal services. The balance

of the total award shall be paid in periodic installments. In case of the death of a claimant due to causes other than ~~his~~ the claimant's accidental personal injury or occupational disease at any time before satisfaction or payment of the total award is made, the award shall not abate, but shall be revived in favor of the persons determined by the Court to be entitled thereto. In proceedings to enforce claims for compensation during a period of healing or temporary total disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically, in accordance with the method of payment of the wages of the employee at the time of his injury, and shall be so provided for in any award made.

B. Awards for permanent total disability shall be made by the Court under Section 22 of this title. The Court shall make a determination that the claimant will be entitled to receive the weekly income benefits provided in this title as long as ~~his~~ the claimant's permanent total disability continues to exist. When an award for total permanent disability becomes final, the accrued portion thereof shall operate as a final adjudicated obligation and payment thereof may be enforced by the claimant. In proceedings to enforce claims for total permanent disability, the compensation under the provisions of the Workers' Compensation Act shall be payable periodically and shall be so provided in any award made thereon. Total permanent disability awards shall not be commuted to a lump-sum payment.

C. All payments shall be made on any award in the manner and form prescribed by the Court not to exceed the weekly rate of compensation specified in Section 22 of this title, and employers and insurance carriers shall, for such purposes, be permitted, or when necessary to protect the interests of the beneficiary, may be required to make deposits with the Administrator to secure the prompt and convenient payment of awards made. Provided that, all

weekly or periodic payments shall be made through the use of United States legal tender, negotiable instruments payable on demand or negotiable drafts when each such payment does not exceed One Thousand Dollars ($1,000.00). Failure for ten (10) days to pay any final award or any portion thereof, as ordered shall immediately entitle the beneficiary to an order finding the respondent and/or insurance carrier to be in default and all unpaid portions, including future periodic installments unpaid, shall immediately become due and may be immediately enforced as provided by Section 42 of this title.

An award for disability may be made after the death of the injured employee, when death results from causes other than the injury. If an employee dies as a result of a compensable injury or an occupational disease, any unaccrued portions of an award or order shall abate.

SECTION 13. AMENDATORY 85 O.S. 1991, Section 43, as amended by Section 33, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 43), is amended to read as follows:

Section 43. A. The right to claim compensation under the Workers' Compensation Act shall be forever barred unless, within two (2) years after the date of accidental injury or death, a claim for compensation is filed with the Workers' Compensation Court. Provided however, a claim may be filed within two (2) years of the last payment of any compensation or remuneration paid in lieu of compensation or medical treatment which was authorized by the employer or the insurance carrier. Provided further however, with respect to disease or injury caused by repeated trauma causally connected with employment, a claim may be filed within two (2) years of the date of last trauma or hazardous exposure. Provided further however, in the case of asbestosis, silicosis or exposure to nuclear radiation causally connected with employment, a claim may be filed

within two (2) years of the date of last hazardous exposure or within two (2) years from the date said condition first becomes manifest by a symptom or condition from which one learned in medicine could, with reasonable accuracy, diagnose such specific condition, whichever last occurs. The filing of any form or report by the employer or insurance carrier shall not toll the above limitations.

B. When a claim for compensation has been filed with the Administrator as herein provided, unless the claimant shall in good faith request a hearing and final determination thereon within ~~five (5)~~ two (2) years from the date of filing thereof or within ~~five (5)~~ two (2) years from the date of last payment of compensation or wages in lieu thereof, same shall be barred as the basis of any claim for compensation under the Workers' Compensation Act and shall be dismissed by the Court for want of prosecution, which action shall operate as a final adjudication of the right to claim compensation thereunder. ~~Provided, that any claims heretofore filed and pending on the effective date of the Workers' Compensation Act before the State Industrial Court shall likewise be barred after the expiration of five (5) years from the filing date or within five (5) years from the date of last payment of compensation or wages in lieu thereof~~ The claimant may, on the payment of the Court's filing fee and with an order of the Court, dismiss any claim brought by the claimant at any time before final submission of the case to the Court for decision. All parties to a claim may at any time before trial, with an order from the Court and on payment of the filing fee, by agreement dismiss the claim. Such dismissal shall be without prejudice unless the words "with prejudice" are included in the order. If any claim that is filed within the statutory time permitted by this section is dismissed without prejudice, a new claim may be filed within one (1) year after the entry of the order

dismissing the first claim even if the statutory time for filing has expired.

C. The jurisdiction of the Court to reopen any cause upon an application based upon a change in condition shall extend for that period of time measured by the maximum number of weeks that could be awarded for the particular scheduled member where the change of condition occurred, or for three hundred (300) weeks in the case of injuries to the body or injuries not otherwise scheduled under the provisions of Section 22 of this title, and unless filed within said period of time after the date of the last permanent partial disability order, shall be forever barred. No case shall be reopened by the Court unless permanent partial disability was awarded. A case shall not be reopened on any body part unless permanent partial disability was awarded to that body part. An order denying an application to reopen a claim shall not extend the period of time set out herein for reopening the case.

D. Each employer shall post a notice advising employees that they are covered by the Workers' Compensation Act and that workers' compensation counselor services are available at the Workers' Compensation Court. The form of the notice shall be prescribed by the rules of the Court. No other notice to the employee shall be required other than said poster required by this section; provided that nothing in this subsection shall be construed to toll the Statute of Limitations provided above.

SECTION 14. AMENDATORY Section 14, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 61.2), is amended to read as follows:

Section 61.2 A. All self-insured employers and group self-insurance association plans shall be required to develop and implement workplace safety plans by January 1, 1996, and shall notify the Administrator of the Workers' Compensation Court, in writing, upon implementation of the plan. All private employers who

become self-insured after the effective date of this act and group self-insurance association plans approved by the Administrator of the Workers' Compensation Court after the effective date of this act shall implement a workplace safety plan within six (6) months of becoming self-insured and shall notify the Administrator of the Workers' Compensation Court, in writing, upon implementation of the plan.

B. Failure on the part of a self-insured employer or a group self-insurance association to implement the requirements of subsection A of this section shall constitute grounds for revocation by the Administrator of the employer's self-insurance permit or approval of the association's self-insurance application, whichever is applicable.

SECTION 15. AMENDATORY 85 O.S. 1991, Section 64, as last amended by Section 6, Chapter 363, O.S.L. 1996 (85 O.S. Supp. 1996, Section 64), is amended to read as follows:

Section 64. A. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association or other concern authorized to transact workers' compensation insurance in this state shall contain a provision setting forth the right of the Administrator to enforce in the name of the people of the State of Oklahoma, for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of said compensation by either the employer or the insurance carrier shall, to the extent thereof, be a bar to the recovery against the other of the amount so paid.

B. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge

of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be on the part of the insurance carrier, that jurisdiction of the employer shall, for the purpose incorporated in this title, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions incorporated in this title.

C. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries sustained by an employee during the life of such policy.

D. 1. Every such policy issued to cover a risk in this state shall include provisions giving the insured employer the option of choosing a deductible amount for medical benefits in amounts ranging from Five Hundred Dollars ($500.00) to Two Thousand Five Hundred Dollars ($2,500.00) in increments of Five Hundred Dollars ($500.00). The insured employer, if choosing to exercise the option, shall choose only one deductible amount.

2. If an insured employer exercises the option and chooses a deductible, the insured employer shall be liable for the amount of the deductible for the medical benefits paid for each claim of work injury suffered by an injured employee.

3. The Insurance Commissioner in exercising ~~his~~ the authority to approve the form of the policy to be issued shall not approve any policy form that permits, directly or indirectly, any part of the deductible to be charged to or passed on to the injured worker or insurer.

4. The insurer shall pay the entire cost of medical bills directly to the provider of the services and then seek reimbursement from the insured employer for the deductible amount.

5. If the insured employer does not reimburse the deductible amount directly to the insurer within sixty (60) days of a written demand therefor, the insurer shall pay the compensable medical claim and may seek to recover the full amount of such claim from the insured employer.

6. Claim amounts up to Five Hundred Dollars ($500.00) annually which are paid under the medical benefits deductible pursuant to this subsection shall be excluded from the calculation of the insured employer's experience modifier.

7. The provisions of this subsection shall be fully disclosed to the prospective purchaser in writing.

E. Every such policy issued to a sole proprietor, partnership, limited liability company, or corporation must disclose to the potential purchaser in writing the option to elect to include the sole proprietors, any or all of the partnership members, any or all of the limited liability company members, or any or all stockholder-employees as employees for workers' compensation insurance coverage by endorsement to the policy in accordance with Section 3 of this title.

F. Every contract or agreement of an employer the purpose of which is to indemnify ~~him~~ the employer from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or ~~his~~ the employer's officer, agent or servant shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for in this title.

~~F.~~ G. No contract of insurance issued by a stock company or mutual association or other concern against the liability arising under this title shall be canceled within the time limited in such contract for its expiration until at least ten (10) days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the Administrator and

also served on the employer. Such notice shall be served on the employer by delivering it to ~~him~~ the employer or by sending it by mail, by registered letter, addressed to the employer at ~~his~~ the employer's or its last-known place of residence; provided, that if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation, then the notice may be given to any agent or officer of the corporation upon whom legal process may be served. Provided, however, if a contract of insurance has been terminated by an employer insured thereunder who has obtained other compensation insurance, as evidenced by filing in compliance with Section 61 of this title, and no intervening rights of any employee are involved, omission of a predecessor insurer to file notice of time of termination of liability shall not constitute basis for imposition of liability against such predecessor insurer.

SECTION 16. AMENDATORY 85 O.S. 1991, Section 84, as amended by Section 35, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (85 O.S. Supp. 1996, Section 84), is amended to read as follows:

Section 84. A. The power and jurisdiction of the Court over each case shall be continuing and it may, from time to time, make such modifications or changes with respect to former findings or orders relating thereto if, in its opinion, it may be justified, including the right to require physical examinations as provided for in Section 25 of this title, and subject to the same penalties for refusal; provided, that upon petition filed by the employer or insurance carrier, and the injured employee, or other person entitled to compensation under the Workers' Compensation Act, the Court shall have jurisdiction to consider the proposition of whether or not a final settlement may be had between the parties presenting such petition. The Court is authorized and empowered to have a full hearing on the petition, and to take testimony of physicians and

others relating to the permanency or probable permanency of the injury, and to take such other testimony relevant to the subject matter of such petition as the Court may require. The Court shall have authority to consider such petition and to dismiss the same without a hearing if in its judgment the same shall not be set for a hearing; the expenses of such hearing or investigation, including necessary medical examinations, shall be paid by the employer or insurance carrier, and such expenses may be included in the final award. If the Court decides it is for the best interest of both parties to said petition that a final award be made, a decision shall be rendered accordingly and the Court may make an award that shall be final as to the rights of all parties to said petition and thereafter the Court shall have no jurisdiction over any claim for the injury or any results arising from same. If the Court shall decide the case should not be finally settled at the time of the hearing, the petition shall be dismissed without prejudice to either party, and the Court shall have the same jurisdiction over the matter as if said petition had not been filed. The same rights of appeal shall exist from the decision rendered under such petition as if provided for appeals in other cases before the Court; provided there shall be no appeal allowed from an order of the Court dismissing such petition as provided in this section.

B. ~~A good faith effort shall be made on the part of any~~ Any insurance carrier, the State Insurance Fund, or group self-insured plan ~~to~~ shall notify an insured employer of the possibility of, and/or terms of, any settlement of a workers' compensation case pursuant to this section. Written comments or objections to settlements shall be filed with the Workers' Compensation Court and periodically shared with the management of the applicable insurer. A written notice shall be made to all policyholders of their right to ~~a good faith effort by their insurer to notify them~~ notification

by their insurer of any proposed settlement, if the policyholder so chooses.

SECTION 17. AMENDATORY 85 O.S. 1991, Section 203, is amended to read as follows:

Section 203. A. Whenever two or more carriers disagree as to which carrier shall be liable for the continuing health care expenses of an employee, the Court may order one of the carriers to start paying for health care costs immediately. The decision of the Court to chose one carrier over another to pay for the medical treatment of an employee shall not be appealable until the Court's final order as to the disability of the employee.

B. The Court shall promulgate rules for expedited hearings in cases involving carrier disputes over the need for immediate medical care.

C. The carrier in the final order who is liable on the risk for the injury shall immediately reimburse the other carrier for medical monies expended upon proper proof of payment.

D. In the event that two or more insurance carriers and/or employers disagree as to which entity is liable for the payment of temporary disability benefits, the Court shall determine which carrier or employer is liable and order reimbursement as determined appropriate. In the event temporary benefits are overpaid by any carrier or employer, the Court shall award a credit against any subsequent order for permanent disability in favor of said carrier or employer, subject to Section 41.1 of this title.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 250 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. The Court shall establish a Workers' Health and Safety Division hereinafter referred to as "Division". The Division shall collect and serve as a repository for statistical information on workers' health and safety. The Administrator of the Workers'

Compensation Court, the Commissioner of Labor, the Oklahoma Department of Vocational and Technical Education and the Insurance Commissioner shall function as an advisory committee to resolve questions regarding duplication of efforts, assignment of new programs and other matters that need cooperation and coordination. In cooperation and with the assistance of the Department of Labor and the Insurance Department, the Division shall:

1. Analyze and use the information to identify and assign priorities to safety needs and to better coordinate the safety services provided by public or private organizations, including insurance carriers;

2. Promote workers' health and safety through educational programs and other innovative programs developed by the Division;

3. Coordinate and supervise the collection of information relating to job safety;

4. Publish or procure and issue educational books, pamphlets, brochures, films, videotapes, and other informational and educational material. Specific educational material shall be directed to high-risk industries and jobs and shall specifically address means and methods of avoiding high frequency, but preventable, workers' injuries. Other educational material shall be directed to business and industry generally and shall specifically address means and methods of avoiding common worker's injuries;

5. Make specific decisions as to what issues and problems should be addressed by such educational information, with Court approval after assigning appropriate priorities based on frequency of injuries, degree of hazard, severity of injuries, and similar considerations. Such educational materials shall include specific references to the requirements of state and federal laws and regulations, to recommendations and practices of business, industry, and trade associations, and where needed, to recommended work practices based on recommendations for the prevention of injury made

by the Division in cooperation and with the assistance of the Department of Labor and the Insurance Department;

6. Cooperate with employers and employees to develop means and methods of educating employees and employers with regard to workplace safety;

7. Encourage other entities to develop safety courses, safety plans, and safety programs;

8. Certify safe employers to provide peer review safety programs; and

9. Advise insurance carrier loss control service organizations of hazard classifications, specific employers, industries, occupations, or geographic regions to which loss control services should be directed or of the identity and types of injuries or occupational diseases for prevention of the same to which loss control services should be directed, and shall advise insurance carrier loss control service organizations of safety needs and priorities recommended by the Division in cooperation and with the assistance of the Department of Labor and the Insurance Department.

B. The Division shall establish and maintain a job safety information system.

1. In cooperation and with the assistance of the Department of Labor and the Insurance Department, the Division is authorized, empowered, and directed to obtain from any state agency, data and statistics, including those compiled for the purpose of rate making. The Division shall consult the Department of Labor and any other affected state agencies in the design of data information and retrieval systems that will accomplish the mutual purposes of those agencies and of the Division.

2. Employers shall file with the Court such reports as may be necessary. The Court shall promulgate rules and prescribe the form and manner of such reports.

3. The job safety information system shall include a comprehensive database that incorporates all pertinent information relating to each reported injury.

4. The identity of the employee is confidential and may not be disclosed as part of the job safety information system.

C. The Division shall develop a program including injury frequency to identify "extra-hazardous employers".

1. The term "extra-hazardous employer" includes an employer whose injury frequencies substantially exceed those that may reasonably be expected in that employer's business or industry; an employer whose experience modifier is identified by the Court as too high; and, such other employers as may, following a public hearing, be identified as extra-hazardous.

2. The Division shall notify each identified extra-hazardous employer and/or the workers' compensation insurance carrier for the employer that the employer has been identified as an extra-hazardous employer.

3. An employer that receives notification under this section must obtain a safety consultation within thirty (30) days from the Department of Labor, the employer's insurance carrier, or another professional source approved by the Division for that purpose. The safety consultant shall file a written report with the Division and the employer setting out any hazardous conditions or practices identified by the safety consultation.

4. The employer and the consultant shall formulate a specific accident prevention plan which addresses the hazards identified by the consultant. The employer shall comply with the accident prevention plan.

5. The Division may investigate accidents occurring at the worksites of an employer for whom a plan has been formulated under this section, and the Division may otherwise monitor the

implementation of the accident prevention plan as it finds necessary.

6. Six (6) months after the formulation of an accident prevention plan prescribed by this section, the Division shall conduct a follow-up inspection of the employer's premises. The Division may require the participation of the safety consultant who performed the initial consultation and formulated the safety plan. If the Division determines that the employer has complied with the terms of the accident prevention plan or has implemented other acceptable corrective measures, the Division shall so certify.

7. An employer whom the Division determines has failed or refused to implement the accident prevention plan or other suitable hazard abatement measures is subject to civil penalties as follows: The Court may assess a civil penalty against an employer who fails or refuses to implement the accident prevention plan or other suitable hazard abatement procedures in an amount up to One Thousand Dollars ($1,000.00) per day of violation payable to the Workers' Compensation Enforcement Revolving Fund. Fees collected pursuant to this section shall be used for enforcement of provisions in this section. Further, the Court has the authority to enjoin the employer from engaging in further employment until such time as the employer implements the prevention plan or abatement measure described above and/or makes payment of all civil penalties.

8. If, at the time of the inspection required under this section, the employer continues to exceed the injury frequencies that may reasonably be expected in that employer's business or industry, the Division shall continue to monitor the safety conditions at the worksite and may formulate additional safety plans reasonably calculated to abate hazards. The employer shall comply with such plans and may be subject to additional penalties for failure to implement the plan or plans.

9. An employer may request a hearing before the Court to contest the findings made by the Division under this section.

10. The identification as an extra-hazardous employer under this section is not admissible in any judicial proceeding unless the Commission has determined that the employer is not in compliance with this section and that determination has not been reversed or superseded at the time of the event giving rise to the judicial proceeding.

D. Any insurance company desiring to write workers' compensation insurance in Oklahoma shall maintain or provide accident prevention services as a prerequisite for a license to write such insurance. Such services shall be adequate to furnish accident prevention programs required by the nature of its policyholders' operations and shall include surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene, and industrial health services to implement the program of accident prevention services.

1. In cooperation and with the assistance of the Department of Labor and the Insurance Department, the Division shall conduct inspections to determine the adequacy of the accident prevention services required by this section at least every two (2) years for each insurance company writing workers' compensation insurance in Oklahoma.

2. Notice that services are available to the policyholder from the insurance company must appear in no less than 10-point bold type on the front of each workers' compensation policy delivered or issued for delivery in the state.

3. At least once a year each insurance company writing workers' compensation insurance in Oklahoma must submit to the Division detailed information on the type of accident prevention services offered to that insurance company's policyholders. The information must include any additional information required by the Court.

4. If the insurance company does not maintain or provide the accident prevention services required by this section or if the insurance company does not use the services in a reasonable manner to prevent injury to employees of its policyholders, the insurance company may be subjected to the same civil penalties as are assessable and enforceable against employers as set forth in paragraph 7 of subsection C of this section and shall be subject to suspension or revocation of license to do business in this state by the Insurance Commissioner.

5. The Court shall employ the qualified personnel necessary to enforce this section.

E. Except as provided in this section, the insurance company, the agent, servant, or employee of the insurance company or self-insured employer, or a safety consultant who performs a safety consultation pursuant to this section shall have no liability with respect to any accident based on the allegation that such accident was caused or could have been prevented by a program, inspection, or other activity or service undertaken by the insurance company or self-insured employer for the prevention of accidents in connection with operations of the employer. Provided this immunity shall not affect the liability of the insurance carrier or self-insured employer for compensation or as otherwise provided by the Workers' Compensation Act.

F. This section does not create an independent cause of action at law or in equity.

SECTION 19. AMENDATORY Section 11, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (36 O.S. Supp. 1996, Section 6701), is amended to read as follows:

Section 6701. A. 1. By January 1, 1996, each insurance company that provides workers' compensation insurance or an equivalent insurance product in this state shall maintain or provide workplace safety services for its policyholders as a condition for

approval by the Insurance Commissioner to write such insurance. Such services shall be adequate to implement workplace safety plans as required by the nature of its policyholders' operations and shall include but not be limited to surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene, and industrial health services.

2. The State Insurance Fund shall maintain or provide workplace safety services for its policyholders. Such safety services shall be adequate to implement workplace safety plans as required by the nature of its policyholders' operations and shall include but not be limited to surveys, recommendations, training programs, consultations, analyses of accident causes, industrial hygiene, and industrial health services.

B. Notice that workplace safety services are available to the policyholder from the insurance company and the State Insurance Fund must appear in no less than ten (10) point bold type on the front of each workers' compensation insurance or equivalent insurance policy delivered or issued for delivery in this state.

C. Failure on the part of an insurance carrier to implement the requirements of paragraph 1 of subsection A of this section shall constitute grounds for revocation by the Insurance Commissioner of the insurance carrier's certificate of authority to write workers' compensation insurance or the Insurance Commissioner's approval of the workers' compensation equivalent insurance product, whichever is applicable.

SECTION 20. AMENDATORY 47 O.S. 1991, Section 1128, as amended by Section 2, Chapter 93, O.S.L. 1993 (47 O.S. Supp. 1996, Section 1128), is amended to read as follows:

Section 1128. A. Every person manufacturing or having a contract to sell new vehicles in this state shall file a verified application for a general distinctive number for all new vehicles owned or controlled by the manufacturer or dealer; provided, the

Oklahoma Tax Commission shall issue a license to sell such new motor vehicles only for those types of new vehicles for which the applicant has a sales contract or franchise; provided, further, that no license shall be issued to any applicant that has not complied with the provisions of Sections 561 through 568 of this title and does not hold a current license issued by the Oklahoma Motor Vehicle Commission pursuant thereto. A separate manufacturer's or dealer's license shall be required for each separate county within which such manufacturer or dealer has an established place of business and upon payment of a license fee of Ten Dollars ($10.00) there shall be assigned and issued to such manufacturer or dealer a Certificate of Registration and one license plate which shall be displayed upon each vehicle of such manufacturer or dealer when same is operated, driven, or displayed on any street, road, or highway, in the same manner as hereinbefore provided for vehicles owned by other persons. Such a manufacturer or dealer in new vehicles may obtain as many additional license plates as may be desired, upon the payment of the sum of Ten Dollars ($10.00) for each additional plate; provided that no such license plate issued to any manufacturer or dealer shall be used or displayed upon any secondhand or used vehicle, or upon any new vehicle which is used for a service car, or private use, or for hire. Any person, with consent of the dealer, may operate a motor vehicle, with the dealer's tag affixed, while contemplating purchase, so long as this intent is limited to a consecutive seventy-two-hour period, or a weekend. An individual holding a valid salesman's license issued by the Oklahoma Motor Vehicle Commission shall not be subject to this limitation. If such person also buys and sells used vehicles, ~~he~~ the person shall, after obtaining ~~his~~ the new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, also obtain a used motor vehicle dealer's license, from the Used Motor Vehicle and Parts Commission,

the cost of which shall be as prescribed in Section 1101 et seq. of this title.

B. Each dealer and used motor vehicle dealer shall keep a record of the purchase and sale of each motor vehicle ~~he~~ the dealer buys or sells, which shall show the name of the seller or buyer as the case may be, and a complete description of the vehicle purchased or sold, and such other information as the Commission may prescribe.

C. Application for manufacturer's or dealer's license must show that such dealer or manufacturer has not violated any of the provisions of this section; and such license shall be nonassignable; and any such license may be suspended temporarily or revoked by the Commission for violation or failure to comply with this section, provided, the holder of such license shall be given ten (10) days' notice of hearing to suspend or cancel such license. If any such person subject to any of the licenses required in this section fails to obtain it when due, a penalty of twenty-five cents ($0.25) per day on each such license shall be charged in the same manner as is now provided on delinquent motor vehicle registrations, and after a period of thirty (30) days such penalty shall be equal to the license fee. It shall be the duty of every person licensed to sell new or used motor vehicles to advise each purchaser in writing about ~~his~~ the purchaser's title requirements and payment of any taxes due. Each used motor vehicle must display a proper Oklahoma license plate or a used dealer's license plate. Dealers failing to comply with provisions of this section shall be responsible for all taxes due on such sales or on such vehicles.

D. Every person engaged in the business of transporting and delivering new or used vehicles by driving, either singly or by towbar, saddle mount or full mount method, engaging in drive-away operations as defined in Section 3 of Title 85 of the Oklahoma Statutes, or any combination thereof, from the manufacturer or shipper to the dealer or consignee and using the public highways of

this state shall file with the Commission a verified application for in-transit license plates to identify such vehicles. The application shall provide for a general distinctive number for all vehicles so transported. Upon payment of a license fee of Ten Dollars ($10.00) there shall be assigned and issued to such person one in-transit plate. Such in-transit plate shall be used by such person only on vehicles when so transported. Such person may obtain as many additional in-transit plates as desired upon payment of a fee of Ten Dollars ($10.00) for each additional plate. Provided, a used motor vehicle dealer shall use a used dealer license plate in lieu of the in-transit license plate for transporting a used motor vehicle and, in such cases, shall be exempt from making application for an in-transit license plate. Provided further, only a person who possesses a certificate issued by the Interstate Commerce Commission or the Corporation Commission to engage in the business of transporting and delivering manufactured homes for hire may use the in-transit license plates obtained by them as herein authorized for transporting new or used manufactured homes from one location to another location within Oklahoma or from a point in another state to a point in this state. Nothing contained in this section shall relieve any person from the payment of license fees otherwise provided by law. When the Commission deems it advisable and in the public interest, it may require the holder of any in-transit license, or any person making application therefor, to file a proper surety bond in any amount it deems proper, not to exceed Ten Thousand Dollars ($10,000.00).

E. The Oklahoma Tax Commission shall issue dealer licenses to new and used manufactured home dealers, new and used travel trailer dealers and new and used commercial trailer dealers.

F. All licenses provided for in this section shall expire on December 31 of each year.

SECTION 21. AMENDATORY Section 27, Chapter 349, O.S.L. 1993, as amended by Section 16, Chapter 1, 2nd Extraordinary Session, O.S.L. 1994 (74 O.S. Supp. 1996, Section 18m-1), is amended to read as follows:

Section 18m-1. A. There is hereby created within the Office of the Attorney General a Workers' Compensation Fraud Unit. The offices of the Workers' Compensation Fraud Unit shall be situated in Oklahoma City and in Tulsa. A minimum of one attorney and two investigators shall be situated in the Tulsa office.

B. The Workers' Compensation Fraud Unit, upon inquiry or complaint, shall determine the extent, if any, to which any violation has occurred of any statute or administrative rule of this state pertaining to workers' compensation fraud and may initiate any necessary investigation, civil action, criminal action, referral to the Insurance Commissioner or Insurance Department, referral to the Administrator of the Workers' Compensation Court, referral to a district attorney or referral to any appropriate official of this or any other state or of the federal government.

C. In the absence of fraud, bad faith, reckless disregard for the truth, or actual malice, no person, insurer, or agent of an insurer shall be liable for damages in a civil action or subject to criminal prosecution for communication, publication, or any other action taken to supply information about suspected workers' compensation fraud to the Workers' Compensation Fraud Unit or any other agency involved in the investigation or prosecution of suspected workers' compensation fraud.

D. The Attorney General and the Office of the Attorney General, the Insurance Commissioner and the Insurance Department, the Administrator of the Workers' Compensation Court, every district attorney and every law enforcement agency shall cooperate and coordinate efforts for the investigation and prosecution of suspected workers' compensation fraud.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 11.1 of Title 85, unless there is created a duplication in numbering, reads as follows:

Any employer who is required to obtain coverage under the Oklahoma workers' compensation system may elect to opt out of the provisions of the Oklahoma workers' compensation system upon proof to the Administrator of the Workers' Compensation Court that the employer has elected to opt out and not be covered by the provisions of the Oklahoma workers' compensation system.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 114 of Title 85, unless there is created a duplication in numbering, reads as follows:

The University of Oklahoma Business Research College shall conduct a comparative study of injured workers' benefits. Such study shall include a comparison among the states of Oklahoma, Texas, New Mexico, Colorado, Missouri, Kansas and Arkansas. The study may also reflect the national comparative ratio.

The study shall be based on workers' compensation benefit data for the year of 1998, and on or before February 1, 1999, a report shall be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Governor.

SECTION 24. This act shall become effective November 1, 1997.

Passed the House of Representatives the 25th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate