

# Workers Compensation Mistakes You Can Avoid When You Are Loading and Unloading

*Do you know what the five “Monopolistic States” are? Do you know they have an impact on your Workers Compensation program if you load or unload in those states?*

If not, Louis Hefter, Managing Partner of Capacity Coverage’s Ross & Co., division, outlines the issues you need to know to avoid potential financial damage to your business.

## **What Are the Monopolistic States?**

There are five monopolistic states. Wyoming, North Dakota, Washington and Ohio are states where the state itself is the only provider of Workers Compensation Coverage. The fifth state, West Virginia has only one insurer. In a step to move West Virginia out of monopolistic status, in January 2006 it designated BrickStreet Mutual Insurance as the state’s sole Workers Compensation insurance carrier. Beginning July 1, 2008, West Virginia will open up to other insurers.

## **How Do Workers Compensation Laws Vary By State?**

Workers Compensation policies provide “statutory” benefits to employees who become injured or ill during the course of employment. These statutory benefits are based on state laws, differing from state to state.

A worker may be injured while working for you in a different state than where your business is based. If that happens, the worker may be eligible to collect Workers Compensation under the statutory benefits of the state in which the injury occurred.



## **What is Other States Coverage?**

If your employees work for you in states other than your home state, it is imperative that your Workers Compensation policy have “Other States” coverage. If you don’t have “Other States” coverage, your company may be financially responsible for paying the costs of the employee’s injury based on laws of the state where the injury occurred. Or, your company may be responsible for paying the difference between your domiciled state’s benefits and the benefits of the state where the injury occurred.

*For example,* an employee of ABC Moving & Storage based in New York is eligible for a maximum \$400.00 per week or 66 2/3 of their Average Weekly Wage for the duration of disability. If that employee is injured in Virginia the benefits eligible are a maximum of \$773.00 per week or 66 2/3 of their Average Weekly Wage for 500 weeks. (Both examples reflect Temporary Total Disability Maximums). In this example, without having the “Other States” endorsement you could be held liable for the Virginia benefits.

“Other States” coverage is addressed in your Workers Compensation policy as Item 3C, which says “all states except monopolistic states.”

## How Do You Handle Employers Liability in Monopolistic States?

Employers Liability provides additional coverage for claims if the employer is held liable because their indifferent act endangered the safety of their employees. Employers Liability coverage pays for related expenses and damages if you are ever sued for employment related illness or injury.

Employers Liability also includes coverage for “Third Party” claims. This could include the family of the injured worker who suffers damages as a result of the injury or illness. It can also include third parties who are sued by the injured worker for their contribution to the cause of the injury or illness.

A Stop Gap Endorsement provides Employers Liability Coverage in monopolistic states. The Stop Gap Endorsement can be added to the Workers Compensation policy in your home state unless your home state is one of the five monopolistic states. In the monopolistic states, the Stop Gap Endorsement must be added to your General Liability policy.

## What Do You Do If You Hire Labor in a Monopolistic State?

As each Monopolistic State has different laws addressing coverage for the hiring of resident labor it is suggested you discuss in detail any operations conducted in those states.

If you currently work in one of the five monopolistic states or plan to begin working in one, contact your insurance broker. You should discuss the necessary steps you must take to purchase Workers Compensation Coverage in that state. It is also strongly recommended that your broker endorse your Workers Compensation policy to include the Stop Gap Endorsement for Employers Liability.

Other States Coverage and the Stop Gap Endorsement are available from most insurance companies and are relatively inexpensive when compared to the impacts of not having them.

\*Statistics provided for eligible benefits are from MyWave Broker Briefcase 2006 New York Workers Compensation Statutes and MyWave Broker Briefcase 2006/2007 Virginia Workers' Compensation Statutes.

### Possible Solutions in Monopolistic States:

While these solutions will ultimately cost you more time and money, they can help in eliminating the Monopolistic exposure.

- **Sub-Contract the work of helpers from a local van line agent**
- **Use the services of a temporary labor agency**
- **Bring the helpers with you from your home state**
- **Occupational Accident with Contingent Liability**

It is also recommended that if you choose one of the above solutions that you request a certificate of insurance from the van line agent or labor agency.

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