



# Oregon

## Department of Consumer and Business Services

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### INSURANCE DIVISION BULLETIN INS 2001-6

**DATE:** September 4, 2001

**TO:** All Workers' Compensation Insurers, Workers' Compensation Rating

**SUBJECT:** Standard Limits of Liability for Oregon Workers' Compensation Policies.

The Oregon Supreme Court, in *Smother's v. Gresham Transfer*, 332 OR 83 (2001), ruled that the employer exclusive remedy provision of the Oregon Workers' Compensation Law does not apply to certain work-related injuries. Because of the court's decision, the Director believes the current \$100,000 Limits of Liability provision fails to adequately protect workers' compensation policyholders for the following reasons:

- The Smother's' exposure creates the possibility of virtually unlimited jury awards.
- The mean national jury award for 1999 was \$1 million.
- The general price index has increased six-fold and the medical price index has increased 14-fold since the National Council on Compensation Insurance (NCCI) established the \$100,000 Employer Liability Standard Limits in 1954.
- The additional premium paid by employers for increased limits would mitigate against insurer adverse selection and thereby supports the availability of workers' compensation insurance in Oregon.

For these reasons, the Director asked the NCCI to file an amendment to Oregon's standard limits for employer liability under Part II of the standard workers' compensation policy. The specific request was to increase the basic amounts to \$500,000 for Bodily Injury by Accident and \$500,000 for Bodily Injury by Disease. The NCCI honored this request with an August 31, 2001, endorsement filing. The filing was made on behalf of NCCI members and affiliates that are now writing, or will write, workers' compensation insurance in Oregon.

The effective date of this change is January 1, 2002, for new and renewal policies. This change will result in an increase of 1.7 percent, which will be included in the overall loss cost revision, also to be effective January 1, 2002.

The NCCI plans during the next year to research the need to revise the Employer Liability Increased Limits Table. In the interim, since Oregon has an "Open Competition" ratemaking law for workers' compensation insurance, insurers may file deviations to this schedule. Justified deviations will be approvable.

If you have questions regarding this bulletin, please contact Richard McGavock, Senior Policy Advisor, at (503) 947-7201.

This bulletin is dated the 4th day of September, 2001, at Salem, Oregon.

\_\_\_\_\_(signed)\_\_\_\_\_  
**Joel Ario**  
Insurance Administrator