

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To declare the existence of an emergency with respect to the need to amend the District of Columbia Workers' Compensation Act of 1979 to provide that the payment or award of compensation under the workers' compensation law of any other state shall not bar a claim for compensation under the District's workers' compensation law for the same injury or death; provided, that any such award under the District's workers' compensation law shall be reduced by the amount of compensation received or awarded under the workers' compensation law of any other state.

RESOLVED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Parity in Workers' Compensation Recovery Emergency Declaration Resolution of 2023".

Sec. 2. (a) Currently, under section 4(a-1) of the District of Columbia Workers' Compensation Act of 1979, effective July 1, 1980 (D.C. Law 3-77; D.C. Official Code § 32-1503(a-1)) ("section 4(a-1)"), a worker cannot receive any workers' compensation and at any time receive compensation under the workers' compensation law of any other state for the same injury or death. In practice, this provision is strictly interpreted by the courts to bar injured workers from bringing otherwise valid claims in the District if they have received any compensation under the law of another state, no matter whether the compensation provided in that other state was less than the worker would be entitled to in the District or whether the

34 worker knew that receiving the compensation would waive the right to bring a claim in the
35 District.

36 (b) This legislative scheme effectively allows employers and their insurers to choose
37 which state's law will apply to workers' compensation claims brought against them. For
38 example, where an employer or its insurance company files the first report of injury in another
39 state and writes the injured employee a check for any amount, that action effectively bars the
40 employee from seeking compensation in the District. An employer may even simply tell the
41 worker that a payment is being made in accordance with the law of another state. Although an
42 injured worker could maintain the ability to bring a claim in the District by the rejecting
43 payment, injured workers are typically not in a position to do so when such payments are needed
44 to cover medical expenses or other bills and often do not know that accepting a payment will bar
45 them from any recovery in the District. Courts interpret section 4(a-1) broadly and conduct a
46 case-by-case analysis to determine whether a claimant has received compensation under the law
47 of another state; that analysis often results in claimants being denied access to relief in the
48 District.

49 (c) The Council first addressed this problem through the Parity in Workers'
50 Compensation Recovery Emergency Amendment Act of 2022 (A24-453) which enacted
51 protections for workers on an emergency basis. The accompanying temporary legislation
52 maintained the provided remedy through May 2023; however, the Council was not able to
53 consider permanent legislation on this issue prior to the expiration of the temporary act.

54 (d) This current emergency legislation keeps in place the remedy the Council provided in
55 2022 by removing the bar on recovering workers' compensation in the District after receiving
56 similar compensation under the laws of another state. This legislation is being moved on an

57 emergency basis restore the status quo while the Council considers permanent legislation (B25-
58 474) to ensure that injured workers—including those with a currently pending case—are not
59 prevented from accessing full compensation afforded under District law due to first accepting
60 compensation in another state.

61 Sec. 3. The Council of the District of Columbia determines that the circumstances
62 enumerated in section 2 constitute emergency circumstances making it necessary that the Parity
63 in Workers' Compensation Recovery Emergency Amendment Act of 2023 be adopted after a
64 single reading

65 Sec. 4. This resolution shall take effect immediately.