ALEC's Workers' Compensation as Exclusive Remedy Resolution

Summary

ALEC's Workers' Compensation as Exclusive Remedy Resolution reasserts the traditional no-fault principle upon which the system is based.

Model Resolution

{Title}

WHEREAS, since the early 1900s every state has adopted some type of workers' compensation system that provides workers with medical, wage loss, and other benefits on a no-fault basis for injuries or death arising during the course of employment; and

WHEREAS, the system is intended to remove all disputes between the employer and employee from the tort system and to be the exclusive remedy for employees; and

WHEREAS, in exchange for employees giving up their right to sue their employer, the employer has agreed to compensate all employees on a no-fault basis; and

WHEREAS, tort immunity is thus a fundamental and necessary element of the workers' compensation system; and

WHEREAS, new legal theories have been advanced in recent years to permit tort recovery from employers for injuries subject to the workers' compensation system; and

WHEREAS, such theories threaten to weaken or destroy the exclusive remedy concept, thereby permitting recovery against the employer under both the workers' compensation and the tort system, for the same injury; and

WHEREAS, the workers' compensation was intended to remove all disputes between employer and employee from the tort system and to be the exclusive remedy for employees;

NOW THEREFORE BE IT RESOLVED, that the State of (insert state) specifically reaffirms the principle of workers' compensation as the exclusive remedy and rejects the rationale for tort liability based on legal theories such as dual capacity/dual persona, intentional injury without proof that the employer acted with deliberate intention to cause the injury, or third party action against employers for work-related injuries.

1995 Sourcebook of American State Legislation