

CHAPTER 65-08 EXTRATERRITORIAL APPLICATION

65-08-01. Extraterritorial coverage - When and how furnished.

1. An employee who suffers an injury while working outside this state, on account of which the employee or the employee's dependents would have been entitled to workforce safety and insurance benefits provided by this title had such injury occurred within this state, is entitled to benefits, or that employee's dependents in the event of the employee's death are entitled to benefits if at the time of injury:
 - a. The employment is principally localized in this state, as determined by the following:
 - (1) The employer has a place of business in this state;
 - (2) The employee regularly works at or from that place of business;
 - (3) The employment contract is entered in this state; and
 - (4) In the case of an employee leasing company, the company retains control over the employee and does not lease the employee to an out-of-state employer;
 - b. The employee is working under a contract of hire, made in this state in employment not principally localized in any state, if:
 - (1) The employer has a place of business in this state;
 - (2) The employment contract is entered in this state; and
 - (3) In the case of over-the-road trucking, the employer retains control over the driver, dispatches employees from this state, and does not lease the driver to out-of-state employers; but trip leasing does not end coverage;
 - c. The employee is working under a contract of hire made in this state in employment principally localized in another state and that state's workforce safety and insurance law is not applicable to the employer, as provided by a reciprocal agreement;
 - d. The employee is working under a contract of hire made in this state for employment outside the United States and the workforce safety and insurance law of that other jurisdiction is not applicable to the employer; or
 - e. The employee is a resident of another state, and is hired by a North Dakota employer or that employer's authorized agent for temporary employment, the situs of which is located in another state, and the temporary employment is necessary to the principal employment of the North Dakota employer, provided that the other state recognizes the coverage under this title as the sole remedy of the employee against the employer for the injury or death.
2. The payment or award of benefits under the workforce safety and insurance law of another state, territory, province, or foreign nation to an employee or the employee's dependents otherwise entitled on account of the injury or death to workforce safety and insurance benefits of this state bars a claim for benefits under this title.
3. An employment relationship that is principally localized outside of this state is exempt from this title while the employee is temporarily within this state unless the workforce safety and insurance law of the state in which the employment is

principally localized provides that the workforce safety and insurance remedy in this state is the exclusive remedy for the employee or the dependents of an employee who died as the result of an injury in this state.

4. An employer whose employment results in significant contacts with this state shall acquire workforce safety and insurance coverage in this state unless a reciprocal agreement between the states is entered which provides that the other state will likewise recognize that an employment relationship entered into in this state is exempted from the application of the workers' compensation insurance law of the other state. An employment has significant contacts with this state when:
 - a. Any employee earns or would have been expected to earn twenty-five percent or more of the employee's gross annual wage or income from that employer from services rendered in this state; or
 - b. Twenty-five percent of the employer's gross annual payroll is payable to employees for services rendered in this state.

Under this subsection, an employee injured in this state may elect to file a claim in this state notwithstanding that the employee had another remedy in the state in which the employment was principally localized. A claim filed under this subsection is subject to section 65-05-05. The time limits within which the organization shall issue a decision on a claim, as specified in sections 65-01-16 and 65-02-08, do not begin to run for claims filed under this section until the first date the organization may begin to process the claim as set forth in section 65-05-05.

5. An employer who opens an employer account with the organization under this section is obligated to report all wages paid in this state, regardless of whether the significant contacts factors set forth in subsection 4 have been met.

65-08-02. Reciprocity in extraterritorial application of compensation acts of various states provided. Repealed by S.L. 1991, ch. 718, § 2.

65-08-03. Evidence that nonresident employer carries extraterritorial workforce safety and insurance coverage. A certificate from the executive secretary or other duly authorized officer of workforce safety and insurance or similar organization of another state certifying that an employer of such other state is insured under the Workforce Safety and Insurance Act or similar act thereof, and has provided extraterritorial coverage insuring that employer's employees while working within this state, is prima facie evidence that such employer carries such workforce safety and insurance.

65-08-04. Agreements between states relating to conflicts of jurisdiction. The organization, through the action of the director, may enter into agreements with the workforce safety and insurance agencies of other states relating to conflicts of jurisdiction where the contract of employment is in one state and the injuries are received in the other state, or where there is a dispute as to the boundaries or jurisdiction of the states and when such agreements have been executed and made public by the respective state agencies, the rights of the employee hired in such other state and injured while temporarily employed in this state, or hired in this state and injured while temporarily employed in another state, or where the jurisdiction is otherwise uncertain, must be determined pursuant to such agreements and confined to the jurisdiction provided in such agreements. Where such an agreement exists, any provisions of this chapter which conflict with the provisions of that agreement are superseded by the provisions of that agreement.