

### **342.670 Extraterritorial coverage.**

- (1) If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of the employee's death, his or her dependents, would have been entitled to the benefits provided by this chapter had that injury occurred within this state, that employee, or in the event of the employee's death resulting from that injury, his or her dependents, shall be entitled to the benefits provided by this chapter, if at the time of the injury:
  - (a) His or her employment is principally localized in this state; or
  - (b) He or she is working under a contract of hire made in this state in employment not principally localized in any state; or
  - (c) He or she is working under a contract of hire made in this state in employment principally localized in another state whose workers' compensation law is not applicable to his or her employer; or
  - (d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.
- (2) The payment or award of benefits under the workers' compensation law of another state, territory, province, or foreign nation to an employee or his or her dependents otherwise entitled on account of such injury or death to the benefits of this chapter shall not be a bar to a claim for benefits under this chapter, if a claim under this chapter is filed within two (2) years after that injury or death. If compensation is paid or awarded under this chapter:
  - (a) The medical and related benefits furnished or paid for by the employer under another jurisdiction's workers' compensation law on account of such injury or death shall be credited against the medical and related benefits to which the employee would have been entitled under this chapter had claim been made solely under this chapter;
  - (b) The total amount of all income benefits paid or awarded the employee under another jurisdiction's workers' compensation law shall be credited against the total amount of income benefits which would have been due the employee under this chapter, had claim been made solely under this chapter; and
  - (c) The total amount of death benefits paid or awarded under another jurisdiction's workers' compensation law shall be credited against the total amount of death benefits due under this chapter.
- (3) If any employee is entitled to the benefits of this chapter by reason of an injury sustained in this state in employment by an employer who is domiciled in another state and who has not secured the payment of compensation as required by this chapter, the employer or his carrier may file with the commissioner a certificate, issued by the commission or agency of the other state having jurisdiction over workers' compensation claims, certifying that the employer has secured the payment of compensation under the workers' compensation law of the other state and that with respect to the injury the employee is entitled to the benefits provided under that law, and that the benefits to which the employee or his or her dependents is entitled are at least as great as those to which he or she would be entitled if the injury

occurred and was processed under Kentucky law, under Kentucky coverage. In this event:

- (a) The filing of the certificate shall constitute an appointment by the employer or his carrier of the commissioner as his or her agent for acceptance of the service of process in any proceeding brought by the employee or his or her dependents to enforce his, her, or their rights under this chapter on account of the injury;
  - (b) The commissioner shall send to the employer or carrier, by certified mail to the address shown on the certificate, a true copy of any notice of claim or other process served on the commissioner by the employee or his or her dependents in any proceeding brought to enforce his, her, or their rights under this chapter;
  - (c)
    1. If the employer is a qualified self-insurer under the workers' compensation law of the other state, the employer shall, upon submission of evidence satisfactory to the commissioner, of its ability to meet its liability to the employee under this chapter, be deemed to be a qualified self-insurer under this chapter;
    2. If the employer's liability under the workers' compensation law of the other state is insured, the employer's carrier, as to the employee or his or her dependents only, shall be deemed to be an insurer authorized to write insurance under and be subject to this chapter; however, unless its contract with the employer requires it to pay an amount equivalent to the compensation benefits provided by this chapter, its liability for income benefits or medical and related benefits shall not exceed the amounts of the benefits for which the insurer would have been liable under the workers' compensation law of the other state;
  - (d) If the total amount for which the employer's insurance is liable under (c) above is less than the total of the compensation benefits to which the employee is entitled under this chapter, the commissioner may, if he or she deems it necessary, require the employer to file security, satisfactory to the commissioner, to secure the payment of benefits due the employee or his or her dependents under this chapter; and
  - (e) Upon compliance with the preceding requirements of this subsection (3), the employer, as to the employee only, shall be deemed to have secured the payment of compensation under this chapter.
- (4) Any professional athlete, coach, or trainer who has been hired outside this Commonwealth by an employer domiciled in a foreign state, including professional baseball, basketball, football, and ice-hockey clubs, is exempted from the provisions of this chapter while that employee is temporarily within this Commonwealth doing work for the employer, if the foreign employer has secured workers' compensation insurance coverage under the workers' compensation law of the foreign state, so as to cover the employee's employment while in this Commonwealth. The benefits under the workers' compensation law of the foreign state shall be the exclusive remedy against that employer and any affiliated club for any injury, whether

resulting in death or not, received by any employee while working for that employer in this Commonwealth.

- (5) As used in this section:
- (a) "United States" includes only the states of the United States and the District of Columbia;
  - (b) "State" includes any state of the United States, the District of Columbia, or any province of Canada;
  - (c) "Carrier" includes any insurance company licensed to write workers' compensation insurance in any state of the United States or any state or provincial fund which insures employers against their liabilities under a workers' compensation law;
  - (d) A person's employment is principally localized in this or another state when:
    - 1. His or her employer has a place of business in this or the other state and he or she regularly works at or from that place of business, or
    - 2. If subparagraph 1. foregoing is not applicable, he or she is domiciled and spends a substantial part of his or her working time in the service of his or her employer in this or the other state;
  - (e) An employee whose duties require him or her to travel regularly in the service of his or her employer in this and one (1) or more other states may, by written agreement with his or her employer, provide that his or her employment is principally localized in this or another state, and, unless the other state refuses jurisdiction, the agreement shall be given effect under this chapter;
  - (f) "Workers' compensation law" includes "occupational disease law."

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 1839, effective July 15, 2010. -- Amended 1996 Ky. Acts ch. 355, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 181, Part 15, sec. 94, effective April 4, 1994. -- Amended 1980 Ky. Acts ch. 114, sec. 95, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 191, sec. 2. -- Created 1972 Ky. Acts ch. 78, sec. 7.