

Washoe Tribe of Nevada and California

Law & Order Code

TITLE 38 – WASHOE WORKERS’ COMPENSATION CODE

[Enacted on 10/10/2014 — Resolution 2014-WTC-94. Effective Date 4/9/2015. Current Through Date: 4/20/2015]

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38-10 Authority & Purpose

38-10-010 The Washoe Workers’ Compensation Code is enacted pursuant to the Tribe’s inherent sovereignty and in accordance with the powers delegated to the Washoe Tribal Council under Article VI, Section 1 of the Constitution and By-Laws of the Washoe Tribe.

38-10-020 The purpose of this Title is to provide the same protection from liability to the employer, and the same benefits to the employee, as are provided under the workers’ compensation laws by the state in which the employee works.

38-20 Definitions

1. “Employee” means any person who performs work assigned or controlled by the Tribe, Tribal Entity, or Gaming Enterprise. The term shall not mean a person or other legal entity while acting in the capacity of an independent contractor under contract to the Tribe, Tribal Entity, or any Gaming Enterprise.
2. “Gaming Enterprise” shall mean any gaming business, event, enterprise or activity under the jurisdiction of the Tribe and conducted by the Tribe or any other federally recognized Indian tribe.
3. “Tribal Entity” means any tribal branch, office, department, agency, commission, utility, authority, instrumentality, enterprise, corporation, partnership, limited liability company, or similar corporate entity (whether chartered under tribal, state or federal law), or other entity of any tribe.
4. “Tribe or Tribal” means the Washoe Tribe of Nevada and California.
5. “Washoe Safety Committee” or “WSC” means the administrative claim review department of the Washoe Tribe of Nevada and California.

38-30 Applicability

This Title shall apply to the Tribe, every Tribal Entity that is an employer, any Gaming Enterprise, and all employees thereof.

38-40 Sovereign Immunity

38-40-010 Nothing contained in this Title shall be construed as waiving sovereign immunity from suit or counterclaim of the Tribe, its Tribal government, any Tribal Entity, or any Gaming Enterprise owned by any tribe, and any officers, employees, and agents thereof. All inherent sovereign rights of the Tribe and any other tribe as federally-recognized Indian tribes are hereby expressly reserved.

38-40-020 The Gaming Enterprise is owned by the PCI Gaming Authority, an unincorporated instrumentality of the Poarch Creek Band of Indians, a federally recognized tribe of Indians. Nothing contained in this Title shall be construed as waiving the sovereign immunity from suit or counterclaim of the PCI Gaming Authority or the Poarch Creek Band of Indians. All inherent sovereign rights of the PCI Gaming Authority and the Poarch Creek Band of Indians are hereby expressly reserved.

38-50 Exclusive Remedy

The remedies provided by this Title against the Tribe, any Tribal Entity, or any Gaming Enterprise owned by any tribe are exclusive of any other action or proceeding by reason of the same subject matter against the Tribe, Tribal Entity, or Gaming Enterprise, or an officer or employee of the Tribe, Tribal Entity, or Gaming Enterprise, engaged in work assigned or controlled by the Tribe, Tribal Entity or Gaming Enterprise.

38-60 Benefits

38-60-010 For employees whose workplaces are located in California, the benefits provided to an employee under this Title shall be substantially identical to the benefits provided in similar circumstances under the relevant provisions of the California Labor Code, Division 4 Workers' Compensation and Insurance (Cal. Lab. Code §3200 *et seq.*) as amended to date and as it may be amended in the future.

38-60-020 For employees whose workplaces are located in Nevada, the benefits provided to an employee under this Title shall be substantially identical to the benefits provided in similar circumstances under the relevant provisions of Nevada Revised Statutes, Industrial Insurance: Benefits for Injuries or Death (N.R.S. §616C.005 *et seq.*) as amended to date and as it may be amended in the future.

38-70 Claims and Notices

The employer shall report accidents to, and employees shall file claims with, the insurer selected by the employer to provide workers' compensation insurance coverage.

38-80 Exhaustion of Administrative Remedies.

Any employee, beneficiary, employer, or other person or entity aggrieved by an initial decision of the insurer will exhaust any administrative remedies provided and established by the insurer for such grievance.

38-90 Appeals

38-90-010 After exhaustion of any administrative remedies of the insurer pursuant to §38-80 of this Title, any employee, beneficiary, employer, or other person or entity aggrieved by the decision of the insurer may, within sixty (60) days of receiving notice of the decision, may file a written appeal to the Washoe Safety Committee (WSC).

38-90-020 Upon receipt of an appeal, the WSC shall examine all of the relevant evidence in the matter and issue a decision regarding the disposition subject to the terms of this Title within sixty (60) days. If necessary, as part of its investigation, the WSC may hold a hearing regarding the appeal.

38-90-030 The decision of the WSC shall be issued in writing and contain evaluation of all relevant facts and the basis for the decision. This decision shall be final and binding upon all parties.

38-100 Insurance.

Notwithstanding any other provision of this Title, with respect to any claim made under this Title for which the employer carries an active and enforceable policy of insurance, no judgment on any such claim may be for more than the amount of insurance carried; and further provided, any such judgment may only be satisfied pursuant to the provisions of the policy or policies of insurance then in effect.

38-110 Severability

If any provision of this Title or its application to any person or circumstance is held invalid, the remainder of the Title, or the application of the provision to other persons or circumstances, remains in effect.