



S3 Conference

Screening ❖ Safety ❖ Strategy

Hosted by DISA Global Solutions

- ## Understanding the ROI Potential of Your Workplace Substance Abuse Screening Program

HELLO!



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- ❖ Overview of 'The Law'
- ❖ Voluntary Laws
- ❖ Your Return on Investment (ROI)
- ❖ State-Specific Examples
- ❖ Policy & Procedural Considerations





01

Overview of 'The Law'

Workplace Drug Screening Compliance



Workplace Drug Screening Compliance Hierarchy:

- ❖ Federal Laws
- ❖ Mandatory Laws
- ❖ Case Law
- ❖ **Voluntary Laws**
- ❖ Company Policy

Each layer must be considered for a compliant and defensible screening program.



02

Voluntary Laws

The ROI of your screening program!

Voluntary laws are rules, regulations, statutes, or 'programs' that an employer may wish to **voluntarily** comply with to leverage the law/program benefits.

These benefits are mostly financial, and the savings could potentially **cover the entire cost of your screening program!**

Benefits include:

- ❖ Workers' Compensation Insurance Premium Discounts
- ❖ Workers' Compensation Claim Defense
- ❖ Unemployment Claim Defense
- ❖ Immunity from lawsuits

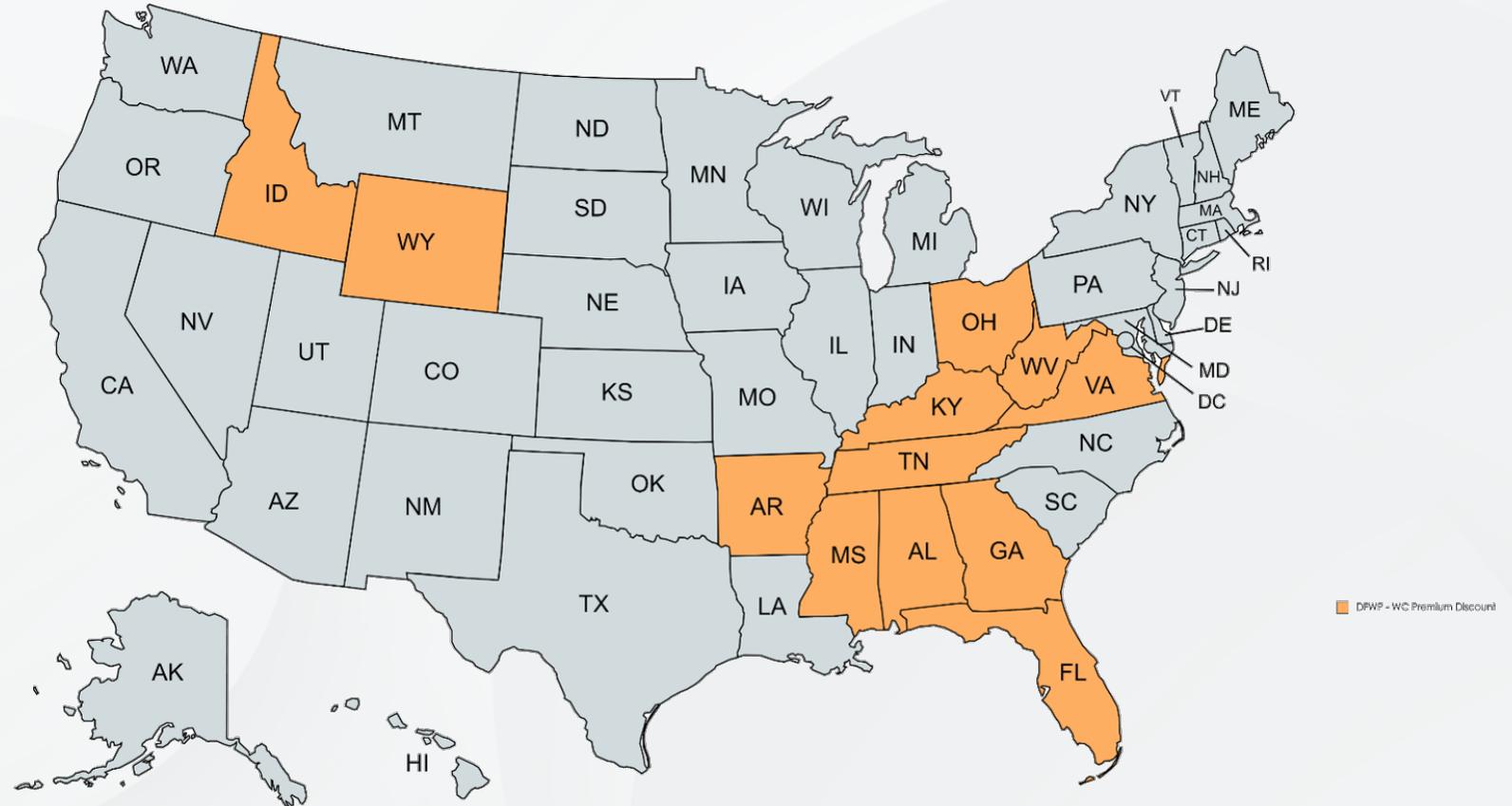


Workers' Compensation Insurance Premium Discounts

- ❖ Also referred to as Drug-Free Workplace Programs (DFWPs) or State Incentive Programs.
- ❖ Discount on the cost of your company's Workers' Compensation insurance premiums.
- ❖ Common discounts range from 5% to 7%, up to 10% or more.
- ❖ Rules will vary by state. Some simply require following DOT regulations—others are far more detailed.

Workers' Compensation Insurance Premium Discounts

12 states provide a discount on WC insurance premiums.



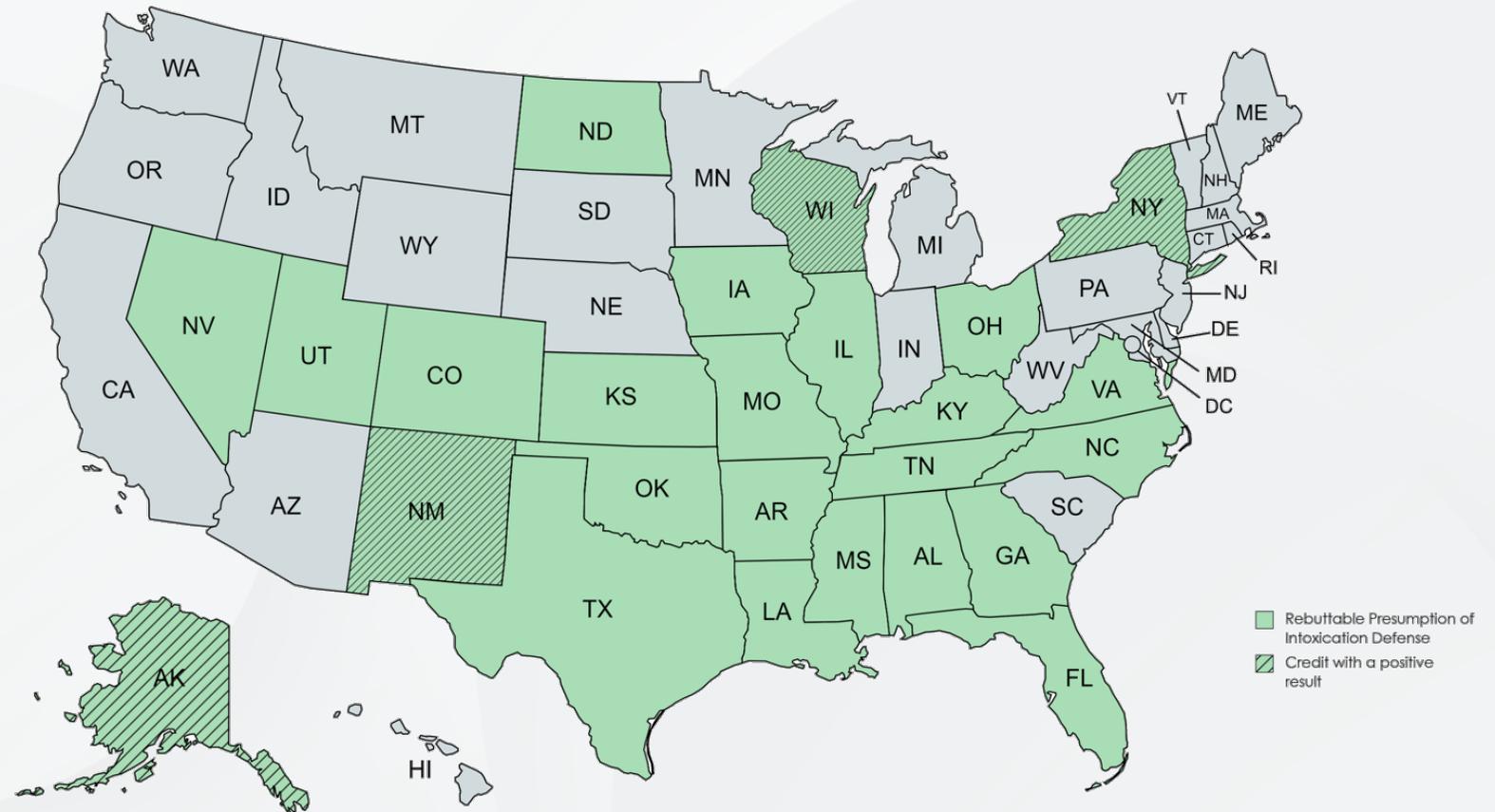
Workers' Compensation Claim Defense

- ❖ Deny all or partial WC benefits based on a positive drug test.
- ❖ 'Rebuttable Presumption of Intoxication' defense.
- ❖ Rules will vary by state.



Workers' Compensation Claim Defense

21 states offer a rebuttable presumption of intoxication defense or credits to a WC claim.



Unemployment Claim Defense

- ❖ Most states allow employers or state unemployment agencies to deny all or partial unemployment benefits based on a positive drug test.
- ❖ Scope varies by state: Some states treat a positive drug test as automatic *misconduct*, while others require it be tied to *work-related* conduct or violation of a written policy.
- ❖ DSCI Survey: More than 60% of employers in Iowa failed to leverage the benefit because they **didn't follow the state's rules!**

Unemployment Claim Defense

State examples:

- ❖ **Alabama** – Disqualification for a confirmed positive drug test **if the employee was warned** that a positive test could lead to dismissal.
- ❖ **Arizona** – **Positive drug test** or **refusal** may be considered **misconduct**.
- ❖ **Oregon** – Failure to follow a reasonable **drug-free policy**, including a positive test, can disqualify, though some rehabilitation exceptions exist.
- ❖ **Pennsylvania** – **Failure to submit/pass a test** under an employer's **policy** is disqualifying.
- ❖ **Virginia** – A positive confirmed drug test **under a bona fide policy** can disqualify.

Immunity from Lawsuits

- ❖ Some states have specific drug testing laws that offer employers a form of legal protection if they establish and maintain a compliant drug testing program.
- ❖ These protections typically say that an **employer cannot be sued** for actions taken in good faith based on the results of a drug test conducted under the statute.
- ❖ Examples include Alaska, Arizona, Iowa, Illinois, Mississippi, Utah, and West Virginia.



How many of you are taking advantage of a voluntary program?





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Your Return On Investment



Workers' Compensation Insurance Premium Discounts

- ❖ Average discount of 5% to 7% (up to 10%).
- ❖ Annual average premium for WC insurance is \$400–\$900 per employee (small businesses).
- ❖ High-risk industries can cost several thousand dollars per employee.*
- ❖ Company's Mod rate.

Potential minimum cost savings = \$20.00/employee!



*FORBES. This amount will vary depending on many factors, including industry risk level, state regulations, company size, and claims history.



Workers' Compensation Claims Defense

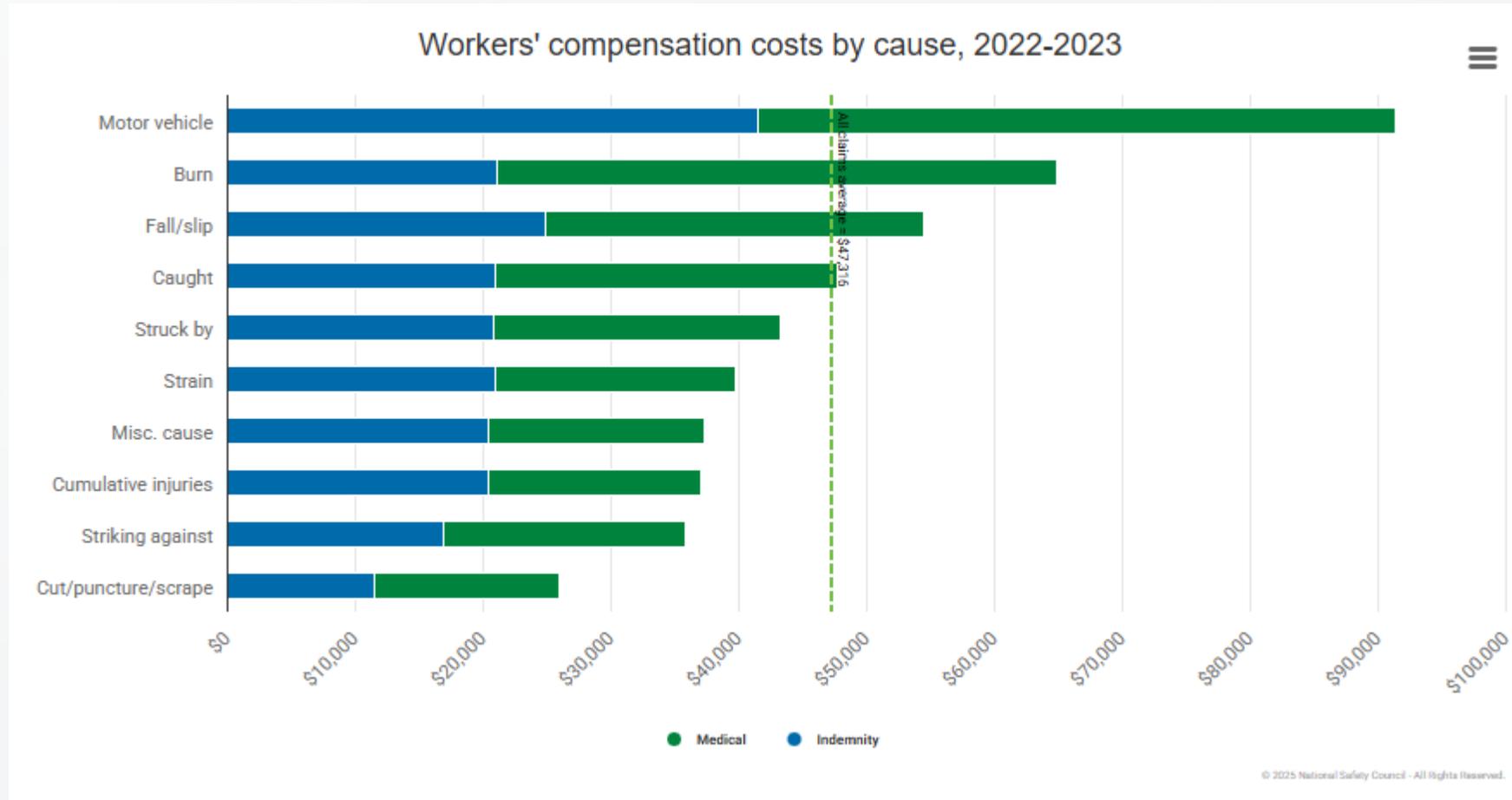
- ❖ The average cost of a Workers' Compensation Claim is ~\$44,000 per claim.*
- ❖ Costs will vary based on many factors such as type and severity of injury, industry/occupational risk, state benefit levels and medical pricing, claim duration, and lost work time.
- ❖ Decrease in Company Mod rate.

Potential cost savings = \$44,000 per incident!



*National Safety Council

Workers' Compensation Claims Defense



*National Safety Council



Workers' Compensation Claims Defense

Case Study:

- ❖ One of the largest food service/hospitality companies in the world.
- ❖ Locations across all 50 states. 100,000+ employees.
- ❖ Workers' Compensation Claim liabilities increased YoY.
- ❖ DSCI designed and implemented a pilot program in 6 states.
- ❖ Client **reduced WC claims by 20%** in 6 months.
- ❖ Saved **\$6.5 million** in the first year!!!



Unemployment Claim Defense

- ❖ The national average of an unemployment claim is \$6,800 per claim.*
- ❖ This figure can vary widely by state rules, wage levels, & benefit duration.

Potential cost savings = \$6,800 per claim!



*fullemployment.org

Immunity from Lawsuits

- ❖ Common settlement ranges between \$40,000 and \$50,000.*
- ❖ This figure can vary dramatically based on the issue & details (claims strength, jurisdiction, settlement vs. trial).
- ❖ Cases involving discrimination, retaliation, whistleblowing, or large wage loss can settle or be awarded well into the six figures or more.

Potential average cost savings = \$40,000

*Lawsuit Talks



BONUS: 'Invisible' Cost Savings of Testing Programs

There are many benefits and cost savings for employers by just having a well-designed substance abuse program in place.

- ❖ Lower risk of workplace accidents/incidents.
- ❖ Reduced downtime.
- ❖ Lower abuse-related loss.
- ❖ Ability to identify and support at-risk employees.
- ❖ Improved productivity and performance.
- ❖ Improved safety culture and general morale.
- ❖ Positive public image.

Potential cost savings = \$Priceless





04

State-Specific Examples

Not all programs are created equal

Texas

- ❖ Offers a Rebuttable Presumption of Intoxication Defense.
- ❖ Patchwork of code sections.

Case Example:

- ❖ *Gonzalez v. Williams* (2019) Texas Court of Appeals.
- ❖ The Texas Labor Code provides: “On the voluntary introduction into the body of any [controlled substance], based on a blood test or urinalysis, it is a rebuttable presumption that a person is intoxicated and does not have the normal use of mental or physical faculties.” Lab. § 401.013(c).

Iowa

The state offers:

- ❖ Rebuttable Presumption of Intoxication Defense.
- ❖ Immunity Provision.
- ❖ Unemployment Claim Defense based on a positive drug test.

Unemployment Claim Defense Case Example:

- ❖ *Harris v. Employment Appeal Board (2003)* Iowa Supreme Court.
- ❖ Employers must comply with Iowa's drug testing law before using a positive drug test to justify denying unemployment benefits – otherwise, the test cannot serve as a basis for disqualification.



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Policy & Procedural Considerations

Failing to plan is planning to fail.



Key takeaways from today's conversation:

- ❖ Clearly understand the language contained within federal and state-specific drug and alcohol screening laws and court and agency rulings that apply to your company in each state(s) where you operate.
- ❖ Create, implement, and routinely review your substance abuse screening policy. Detail your company's stance on prohibited drug and alcohol use (including cannabis) and the related consequences that will be imposed for **misconduct** and policy violations. **Stay up to date** with regulatory or court decisions, as these rules change often.



Key takeaways from today's conversation:

- ❖ Design and implement sound processes and procedures that complement the language within your company policy. This will remove any guessing or potential mistakes when action needs to be taken in the “heat of the moment.”
- ❖ Provide your managers and supervisors with comprehensive training on the details of your substance abuse policy and procedures. Train them on how to recognize the signs and symptoms of drug and alcohol use, and the action steps they should take in such situations.



THANK YOU!

Any questions?

Continue the conversation!

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