

*Workers' Compensation:
A Race to the Bottom
KEJC Workers' Rights Task Force*

December 5, 2017

- Workers' compensation is part of the social safety net of programs that insures most workers against income losses associated with both expected and unexpected life events. Other programs include – unemployment insurance, social security disability, social security, and Medicare.

- The cost of a work related injury can place an enormous economic and psychosocial burden on a worker and their family. A work related injury can put a worker and their family at risk of falling into poverty.
- With worker deaths and injuries skyrocketing in the turn of the last century, workers' compensation emerged in each state as a compromise between the 1920's and the mid 1940's – it was a truce of sorts, not a victory for workers. It is a state run system. In all states but Texas, workers' compensation is required for most employers.

- The basic principle of workers' compensation is that employers assume responsibility for providing insurance that pays cash and medical benefits for workers injured on the job without regard to fault—in return the employers are protected from personal injury or other liability for workplace injuries and illnesses.
- Workers gave up their right to sue their employer when injured on the job.
- In Kentucky—workers' compensation is financed through employer paid insurance or self –insurance (in Ohio and WA for example there are no private carriers)

- Workers' comp varies a lot from state to state. There are NO federal minimal standards. And since 2003, there is no Federal oversight or review of state laws.

- Though workplace fatalities and injuries have drastically declined since the mid 20th century, many occupations and workplaces continue to be dangerous.
- Though there is a 47 year old law (the OSHA law) that requires employers to provide safe conditions – including training—and prevent injuries, **in many workplaces there are job hazards that continue to injure and kill workers. Unsafe conditions cause most injuries. Over 4800 workers were killed on the job last year.**
- In Kentucky, over 43,000 workers suffered an injury requiring medical treatment in 2015. Of those 23,000 required days away from work.

- Over the last thirty years, changes in the workers' compensation programs in many states have made it increasingly difficult for injured workers to receive adequate benefits to which they are entitled.
- These changes limit who is covered by workers compensation, limit weeks of benefits, limits what kind of injuries and illnesses are covered and make it easier to deny coverage, deny compensation if you have any drug in your system—regardless if there is any nexus between the injury and impairment. Attempts in Ohio to exempt undocumented workers—this will only make all workplace more dangerous.

- A recent report by the Department of Labor found that as a result of the changes in workers' compensation laws over the last 30 years– the costs of workplace injuries are now borne primarily by injured workers , their families and taxpayer. Changes in state based workers' compensation insurance programs have made it increasingly difficult for injured workers to receive the full benefits to which they are entitled.
- This is happening despite the fact that there is NO evidence that employers make decisions to relocate a company based on comp laws .

- Employers now provide only 21% of the overall financial cost of workplace injuries and illnesses through workers' compensation.
- Workers, their families and their private health insurance pay for nearly 63% of the medical costs and lost wages of work related injuries and illnesses, and taxpayer funded public programs shoulder the remaining 16 percent of costs.
- This cost-shift has forced injured workers, their families and taxpayers to subsidize the vast majority of the lost income and medical care costs generated by these conditions.”

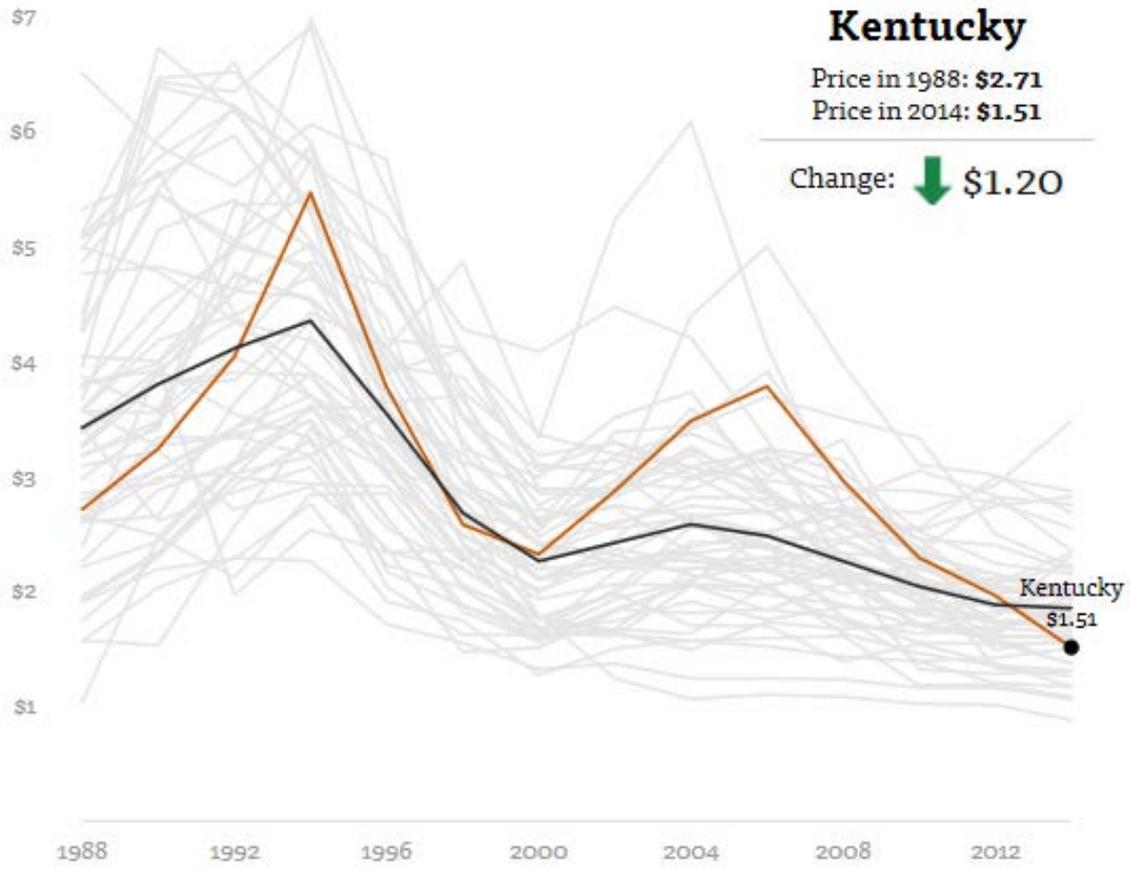
- Over 50 years ago, concerns were raised about the inadequacy of a state based workers compensation system. Congress called for a review and established the National Commission on State Workman's Compensation. In 1972, the Commission found that 'the protection furnished by workmen's compensation to American workers presently is, in general, inadequate and inequitable". They made 19 essential recommendations.
- Some states started to implement these recommendations and benefits increased from 1970-1985, but by the late 1980's and early 1990's, states began to roll back this already weak safety net.

- Now, state legislatures around the nation are engaged in a race to the bottom in their workers' compensation laws, resulting in unfair, weak, or non-existent benefits for injured workers. Including Kentucky.
- State legislature have been successful. Nationally overall , the benefits paid to workers have decreased since 1992.

- KENTUCKY:
- In Kentucky—not all workers are covered by workers' compensation. Kentucky already **excludes** workers in **high hazard occupations** such as **agriculture and domestic workers** from receiving workers' compensation
- The legislation introduced in Kentucky this past year was part of a nation-wide trend in shifting costs from business and insurance companies to injured workers and taxpayers.

- Some facts – opposed to the fiction:
- The average premium cost to Kentucky employers per \$100 of workers' wages in 2012 was \$1.51, compared to Missouri's \$1.98, Ohio's \$1.74, and Illinois' \$2.35.
- **Kentucky's premium contribution is 18% less than the national average of \$1.85.**
- Despite inflation, **there has been no increase in Kentucky's workers' compensation benefits since 2000** and premiums for Kentucky businesses has declined by half since 1998.
- (2014)

\$8 **Average Premium Cost to Employer per \$100 of Worker's Wages**



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