

Worker-Comp Decision Helps Employees With Multiple Jobs

BY BOB MERCER
STATE CAPITOL BUREAU

PIERRE – The Daugaard administration considers a recent ruling by the South Dakota Supreme Court to be the new state law regarding worker's compensation for employees who hold multiple jobs, Lt. Gov. Matt Michels said Tuesday.

The May 6 decision found that Patricia Wheeler of Sioux Falls should be compensated for the three part-time jobs she held.

The injury suffered by Wheeler at one job prevented her from performing the other two jobs.

The court decided the pay from each of the three jobs should be totaled in determining the amount of worker compensation she was due.

Further, the one employer where she was injured was responsible through its insurance to pay her worker's compensation based on the three-job amount.

Michels said worker-comp claims that are pending, or currently being paid, or are filed in the months ahead can be adjusted to reflect what he described as "a new policy."

Michels made his comments during a meeting of the South Dakota worker's compensation advisory council. He is the chairman.

Businesses, governments and other employers are concerned about insurance prices increasing as a result of the court's ruling, according to various people who presented testimony at the council meeting.

Many school districts self-insure through the Associated School Boards of South Dakota and therefore the issue comes back to

South Dakota taxpayers, according to Dick Tieszen, a Pierre lawyer who represents the organization.

"I don't think we know what the impact is going to be," Tieszen said. "If the cost of claims goes up, the premium must go up."

Many school employees work nine months and spend three months working at something else, he said.

Michels asked James Marsh, a state Department of Labor official, to draft possible legislation for consideration at a future council meeting.

"It is the law, and there have been a lot of people who are justifiably confused," Michels said.

South Dakota has the highest ratio in the nation of employees with more than one job at 8.9 percent.

Carla Townsend said she would attempt to assemble a forecast on the possible effects for South Dakota. She is a state relations executive for the National Council on Compensation Insurance.

Wheeler's lawyer, Jolene Nasser of Sioux Falls, told the council Tuesday that 39 states use aggregation in some form to determine worker-comp amounts.

She said five states don't aggregate while six states' laws aren't clear.

The question Michels wants the council to consider is whether the court ruling should be put into writing by the Legislature as a state law or a replacement should be offered.

Marsh said the Supreme Court didn't say in its decision whether the ruling is retroactive.

He said the Legislature in the recent past passed a law disagreeing with the Supreme Court on a decision, a step known as

Noem Named Hero Of Main Street



Submitted Photo
Pictured (Left to Right): Gary Cammack (Union Center), Shawn Lyons (Rapid City), Rep. Kristi Noem, Elmer Karl (Gregory), and Dan Tribby (Rapid City)

Washington, D.C. – Rep. Kristi Noem was today honored as a "Hero of Main Street" – an annual designation offered by the South Dakota Retailers Association in conjunction with the National Retail Federation.

"My family had a Main Street business, so I understand the struggles these businesses face as they create jobs within our communities," said Noem. "I want to fuel an Opportunity Econ-

omy for these hardworking individuals and families. That will only come through smarter policies that unlock the potential of the American workforce by leveling the playing field so small businesses can compete in their communities and across the globe. We have a long way to go to accomplish this, but I'm committed to moving us further in that direction every day."

Created in 2013, the "Hero

of Main Street" award annually recognizes Members of Congress for their support for Main Street priorities. Noem has been a recipient in 2013 and 2014 as well.

"South Dakota's retailers and small businesses are working hard every day to create jobs, provide stellar customer service, and giving back to our state's economy as well as their communities," said Shawn Lyons, Executive Director of the South

Dakota Retailers Association. "We are very appreciative of the support from our Congressional Delegation to ensure that our retailers can thrive and survive in these challenging regulatory times."

The South Dakota Retailers Association was founded in 1897. With more than 3,700 members, the organization ranks as one of the largest state retail associations nationwide

Comfort Not Posion

BY RICHARD P. HOLM, MD

Should a physician ever assist a dying person with suicide?

About twenty years ago my Father was dying of metastatic colon cancer spread to bone. Dad was one of those unusual cases in which meds were simply inadequate for his unrelenting pain. Either he was totally unconscious, or awake and very uncomfortable. There seemed no helpful in-between, and too often pain meds brought wild and scary dreams, caused him to be combative, and frightened him and all involved.

My Mom had called me one evening and warned that Dad was talking about driving into a bridge abutment. She handed him the phone and I pleaded with him not to do such a thing. "I will

talk with your doctor and find a better pain reliever," I promised. "How can I get relief, and how will this end?" he asked. I explained in cases like his, people often develop pneumonia, and since he directed us not to use antibiotics, this might bring it to a close pretty quickly.

Indeed, in less than two days he developed pneumonia, and his need for pain medicines dropped away, due to natural pain relief mechanisms that kick in when lungs start to fail. In two more days he escaped his cancer dying from pneumonia. The death certificate called it death by natural causes, but I suspect he voluntarily stopped coughing after our talk that night, which allowed for the blessing of a rapid case of pneumonia.

There are those who request that physicians should by law be allowed to prescribe death-inducing poisons for patients who are similarly suffering. These people could then fill the prescription, take the poison on their own time, and thereby choose to die on their own terms instead of having to wait for pneumonia.

In my opinion the issue turns around the word "intent." It runs against my moral structure to give a poison intended to kill. On the other hand, I consider it acceptable to prescribe plenty of medicine intended to relieve suffering, even if it might hurry death.

It is truly my moral duty to provide comfort, not poison, as people are dying, even if it is the same medicine.

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