

Review and Analysis of the Theoretical Foundations of Occupational Accident Insurance in the USA

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Abstract. Insurance is an integral element of the modern economic system. Nature and civilization generate new risks, so people, the state and business need similar insurance protection systems. Kazakhstan, in accordance with the program of innovative and industrial development, strives for dynamic growth of industry, its diversification, along with social and labor aspects of production activities. The main focus is not only on technology, modernization of equipment and investments, but also, first of all, on the safety of workers and the preservation of their ability to work. Real progress can be achieved taking into account the effective experience of developed countries in the field of occupational safety and health. In this regard, it will be necessary to pay attention to the foreign experience of economically developed countries with developed legislations that establish various standards regarding labor protection requirements. The article describes the stages of the development of the occurrence, the legal basis of insurance against industrial accidents and occupational diseases in the United States. The assessment proposed in the article gives an idea of the current accident insurance system in the USA and can be used to improve this insurance system in Kazakhstan.

Keywords: occupational injuries, insurance, occupational disease, accident, law.

Introduction

Insurance against occupational injuries and occupational diseases is a type of social security that is widespread in many countries. This indicates the importance of its meaning. In the case of effective work, social insurance against occupational injuries and occupational diseases benefits employees, employers and the state. It plays a positive role in protecting the standard of living of workers and can contribute to maintaining strong industrial relations.

In recent years, Kazakhstan has been working hard to improve the social protection of the working population. In this regard, it is necessary to analyze the main world systems of social insurance against industrial accidents, find out their advantages and disadvantages in order to avoid disadvantages and use the best traditions of foreign social insurance systems in the further development of the national model of social insurance.

Methodology

This article presents the results of scientific re-

search on the analysis of the theoretical foundations of industrial accident insurance in the USA in order to determine the positive experience gained during the implementation of the scientific and technical program on the topic: «Economic problems of safe work and institutional transformations of the insurance mechanism in the Republic of Kazakhstan» (IRN BR11965728) within the framework of program-targeted funding of research of the Republican Research Institute for Labor Protection of the Ministry of Health and Social Protection of the Republic of Kazakhstan.

The work used generally accepted approaches of scientific knowledge, in particular, a socio-economic essay on the development of the theory and practice of occupational accident insurance in the USA, a scientific and methodological review of the theoretical foundations of occupational accident insurance with an indication of the mechanism for the formation of financial insurance flows and their use as a source of investment in safe.

Discussion

Occupational accident insurance is one of the first forms of social insurance developed in the USA [1, 2].

The mass production system in the USA assumed the use of mechanical equipment without improving labor protection conditions. After the Civil War of 1861-1865, there has been some improvement: commissions on railways and factories have been established; new technologies have been applied; life insurance has become more affordable.

The workers' accident insurance system, created by Bismarck in 1884, is often referred to as a model for Europe, and then for the United States [3]. In the late 19th and early 20th century, American politicians and sociologists disagreed on whether the US should follow the German or British system. The German system is based on insurance and excluded the right of employees to sue, while the British system retained the right to sue. As a result, the United States followed the example of Germany [4].

In 2009, the State Program of Insurance against Industrial Accidents and Occupational Diseases was adopted – 25 states participate in the state program of insurance against industrial accidents and occupational diseases. In the states of North Dakota, Wyoming, Washington and Ohio, employers are required to purchase public insurance policies and are not entitled to use private insurance and self-insurance.

Workplace accident laws are different from workers' compensation laws. While workers' compensation is an insurance program designed to cover lost wages and medical expenses, industrial accident laws allow victims to sue companies or individuals guilty of negligence. Depending on the type of industrial accident and injuries, you may be entitled to several types of compensation. Final settlements in industrial injury cases.

Insurance protection against occupational risks in the United States is organized mainly on the principles of private insurance, but each state issues its own laws on the organization of insurance protection against occupational risks. The basic principles of insurance are identical throughout the country, there are significant variations in state legislation – in determining the amount of benefits, methods of administrative regulation, distribution by occupation and in other details [5].

Primary responsibility for insurance regulation in the United States lies with the state government, not the federal government. In 1945, the US Congress delegated this power to the states in the McCarran-Ferguson Act [6]. The McCarran-Ferguson Act is a U.S. federal law that exempts insurance businesses from most federal regulations, including federal anti-trust laws to a limited extent.

The McCarran-Ferguson Law is as relevant today as it was at the time of its adoption. After the adoption of the McCarran-Ferguson Act, state insurance regulators, working through the National Association of Insurance Commissioners (NAIC), began to create the legal framework necessary to strengthen

state regulation and limit any interference by the federal government in the future.

Each state has its own insurance legislation and its own regulatory body (supervision), puts forward its own requirements for the minimum level of capital, types of insurance offered, conducts an audit of controlled insurance companies, carries out general regulation of insurance activities by issuing licenses to brokers, agents and insurance companies themselves. There is no single federal law on insurance and no single federal body for supervision of insurance activities.

Each state determines access, forms, and additional requirements, regulates regulations (for certain types of insurance), and performs other regulatory functions. The state Administration controls insurance through the State Insurance division.

Depending on the state, insurance special commissioners are either directly elected (as in 12 states) or appointed by the governor of the state (as in the other 38 states). Each state builds its insurance laws and regulatory system according to its own interests, although there is a general similarity.

There are two types of insurance companies in the USA: joint stock companies (JSC) and mutual insurance companies (OVS). There are no state insurance companies. Shares of joint-stock companies can be purchased by both an individual and a legal entity. The mode of creation and functioning of JSC is quite rigid. Historically, in the United States, insurance companies were mainly represented by mutual insurance companies. They are traditionally smaller in size than joint-stock companies, but the mode of operation of the OVS is more liberal. As a result, OVS have become widespread in the USA in life insurance (OVS carry out more than 40% of sales of insurance policies), insurance of agricultural producers – farmers (OVS control this market segment completely), in other types of property and liability insurance.

The National Association of Insurance Commissioners establishes model laws that are approved in each state, but there are differences. Each private insurance company must obtain the appropriate authority from the state commission on occupational injuries. State laws usually provide for the possibility of insuring a group of entrepreneurs.

The laws on workers' compensation provide for a certain set of payments to injured workers on a nofault basis (without taking into account their mistakes, degree of guilt). There are several different methods of providing workers' compensation in the United States. The most common method is with private insurance providers on the voluntary market. However, private insurers do not always want to insure certain risks, in particular, taking into account the risks associated with high terrorist potential, included since September 11, 2001.

Another method of ensuring employee compensation coverage is coverage by the State Employee Compensation Fund. A state fund is a government non-profit facility created to guarantee workers' com-

pensation insurance at a reasonable price.

The average cost of compensation calculated for each state is distributed in two stages, approximately 600 risk groups. Firstly, they belong to one of the following three commercial or industrial groups, according to the type of business:

1. Production.
2. Construction.
3. Everyone else.

The average change in the norm is distributed among these three groups. Then, there is a distribution by individual types of activity (individual class codes) within commercial and industrial groups. The premiums that follow from this distribution, known as the guidelines, are set by the NCCI (National Council on Compensation Insurance).

The guidelines reflect the average amounts of claims and average expenses for each unit (=100\$US from the payroll) for each of the 600 types of activities. Further, there are different compensation regulations depending on the state, just as there are changes between states in terms of the burden of claims (frequency and degree), premiums can vary significantly from state to state. In terms of the total amount of the payroll, for example, the rates range from 0.1% to 100%.

Once the guideline is defined, the tariff payment can be adjusted to the risk profile of each company, using assessment tools, some of which are mandatory and others voluntary.

Since most employers are required by law to insure their liability to employees, a mechanism has been created in most US states to cover risks not covered by private insurance companies.

The scheme of insurance of employees from NS, pricing, as well as the responsibility of the insurance organization depends on state legislation.

At the same time, NCCI plays a huge role in all US states, which sets tariffs in almost 40 states. Tariffs are classified by risk groups, to which a correction factor can be applied based on statistical data for the last 3 years. Insurance organizations can pay «dividends» to enterprises at the end of the year, or set a discount for low loss-making.

According to California legislation, the last employer whose employee was exposed to the risk of occupational disease, as well as the insurer who insured the risk of occupational disease, must be liable for compensation, without the right of compensation from other employers or insurers.

Cash payments from insurance organizations in the event of temporary or permanent disability, as well as death, are set as a percentage of wages.

In addition, insurance companies are required to pay benefits to pay for the employee's medical expenses. A typical employer liability policy contains very few exceptions. At the same time, all compulsory employee insurance contracts contain a condition that the insurer may recover the amount of compensation in court if it is established that the employer did not properly fulfill his duties to preserve the

health of employees and occupational safety, which subsequently led to an accident at work.

Let's consider a comparative analysis of the institutional infrastructure of the OSNS system in the USA on the example of a separate Insurance institution – the State (federal level). The National Association of Insurance Special Commissioners NAIC establishes model laws. Model laws and regulations are an important part of the national system of State regulation of insurance.

The State Workers' Compensation Fund is a government non-profit facility created to guarantee workers' compensation insurance at a reasonable price. In 5 states, the state fund is a monopoly, in 22 states, the state fund competes with private insurance providers. The National Compensation Insurance Council NCCI plays a key role in assessing compensation. It is a private organization with the character of a public authority that functions as an «insurance service provider». As an alternative to market elements, the state fund usually has an additional function as a «market of last resort» for those who are unable to obtain insurance on the voluntary market.

The NAIC Model Laws deal with areas where uniformity and consistency between State borders is beneficial for everyone. The «Basic Guidance on Workers' Compensation and Insurance of Civil Liability of Entrepreneurs» has been developed by NCCI and supports general regulation and deductions taking into account risks in certain risk groups. It is not used in states where workers' compensation insurance is provided only by the state fund.

The advantage of this system is that the insurance system is dynamic – as new industries and new risks appear, new model (model) laws and recommendations are developed (or adjusted), which are the basis for insurance systems in different states.

The disadvantages include the fact that the developers of model laws and the executors (insurance companies) are different entities. In this regard, it is necessary to create a connecting entity – regulatory and regulatory authorities. Since the interpretations of these models may differ in different states, the implementation of state control over the execution is a difficult task.

In recent years, workplace safety initiatives and regulations have been implemented in almost every industry in the United States. According to OSHA, in 2019, workplace deaths nationwide decreased by 60.53% compared to 1970.

In 2019, California and Texas recorded the highest number of workplace deaths compared to any other state in the country. States with above-average fatal accident rates include Wyoming, Alaska, North Dakota, West Virginia, South Dakota and Mississippi. Arkansas, Delaware and Georgia are considered the least dangerous states where the level of occupational injuries is below the national average.

Despite the fact that the law on workers' compensation in the United States is excessively complicated and burdened with separate implementation

schemes for each of the fifty states, it remains one of the relatively successful examples of American legislation. Three of its most important advantages are noted:

- 1) the employer receives an exemption from the tort;
- 2) the employee receives a relatively fast, fair and predictable compensation scheme without determining fault;
- 3) the system carries an incentive to rehabilitate an injured employee.

The abundance of insurance programs in the United States, of course, is due to the difference in the legislation of each state, the development of certain types and conditions of production, the demographic situation and other factors. Workplace injuries and illnesses cost the United States about \$250 billion annually.

Results

Thus, an analysis of valuation methods in the United States shows that different approaches to the employee compensation financing scheme are possible.

Insurance protection against occupational risks in the United States is organized mainly on the principles of private insurance, but each state issues its

own laws on the organization of insurance protection against occupational risks. The basic principles of insurance are identical throughout the country, there are significant variations in state legislation – in determining the amount of benefits, methods of administrative regulation, distribution by occupation and in other details.

The insurance system of compensation for each worker, whether organized on a public or private basis, faces the problem of financial security in connection with the current and future requirements of insurers.

There are several different methods of providing HC insurance to workers in the US. The most common method is insurance by private insurance companies. Insurance companies are free to choose the risks they would like to take on, excluding new and high-risk ventures.

Another method of ensuring coverage of workers' compensation is coverage by the State Workers' Compensation Fund. The State Fund is a government non-profit entity created to guarantee workers' compensation insurance at a reasonable cost.

While the National Association of Insurers makes model laws, each state in the United States is free to make its own statutes for organizing employee VA insurance.

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АҚШ-тың өндірісінде жазатайым жағдайлардан сақтандыру туралы теориялық негіздерге шолу және талдау

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Аңдатпа. Сақтандыру қазіргі экономикалық жүйенің ажырамас бөлігі болып табылады. Табиғат пен өркениет барлық жаңа тәуекелдерді тудырады, сондықтан адамға, мемлекетке және бизнеске ұқсас сақтандыру жүйелері қажет. Қазақстан инновациялық-индустриялық даму бағдарламасына сәйкес өнеркәсіптің серпінді

өсуіне, оны әртараптандыруға, өндірістік қызметтің әлеуметтік-еңбек аспектілерімен қатар ұмтылады. Негізгі назар тек технологияға, жабдықты жаңартуға және инвестициялауға ғана емес, ең алдымен жұмысшылардың қауіпсіздігі мен олардың еңбекке қабілеттілігін сақтауға бағытталған. Дамыған елдердің еңбек қауіпсіздігі және еңбекті қорғау саласындағы тиімді тәжірибесін ескере отырып, нақты прогреске қол жеткізуге болады. Осыған байланысты еңбекті қорғауға қойылатын талаптарға қатысты әр түрлі стандарттарды белгілейтін дамыған заңнамалары бар экономикалық дамыған елдердің шетелдік тәжірибесіне назар аудару қажет болады. Мақалада пайда болу кезеңдерінің сипаттамасы, өндірістегі жазатайым оқиғалардан және АҚШ-тың кәсіптік ауруларынан сақтандырудың заңнамалық негіздері келтірілген. Мақалада ұсынылған бағалау АҚШ-тағы жазатайым оқиғалардан сақтандырудың қолданыстағы жүйесі туралы түсінік береді және Қазақстанда осы сақтандыру жүйесін жетілдіру үшін пайдаланылуы мүмкін.

Кілт сөздер: өндірістік жарақат, сақтандыру, кәсіптік ауру, жазатайым оқиға, заң.

Обзор и анализ теоретических основ страхования от несчастных случаев на производстве США

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Аннотация. Страхование является неотъемлемым элементом современной экономической системы. Природа и цивилизация порождают все новые риски, поэтому человеку, государству и бизнесу требуются аналогичные системы страховой защиты. Казахстан в соответствии с программой инновационно-индустриального развития стремится к динамичному росту промышленности, его диверсификации, наряду с социально-трудовыми аспектами производственной деятельности. Основное внимание сосредоточено не только на технологии, модернизации оборудования и инвестициях, но и в первую очередь, на безопасности работников и сохранение их трудоспособности. Реальный прогресс, может быть достигнут с учетом эффективного опыта развитых стран в области безопасности и охраны труда. В связи с этим будет необходимо обратить внимание на зарубежный опыт экономически развитых стран с развитыми законодательствами, устанавливающими различные стандарты, касающиеся требований к охране труда. В статье приводятся описание этапов развития возникновения, законодательные основы страхования от несчастных случаев на производстве и профессиональных заболеваний США. Оценка, предложенная в статье, дает представление о действующей системе страхования от несчастных случаев в США и может быть использована для совершенствования данной системы страхования в Казахстане.

Ключевые слова: производственный травматизм, страхование, профессиональное заболевание, несчастный случай, закон.

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