

# ALR 6th

## Alert

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### From the editor

Volume 42 A.L.R.6th and the upcoming 43 A.L.R.6th contain annotations dealing with various aspects of state workers' compensation statutes. 42 A.L.R.6th 61 explores the issue whether injuries to employees that occur in employer-provided living quarters or room and board are injuries arising out of and in the course of the employment. Other annotations examine the exclusive remedy rule found in workers' compensation statutes as it relates to liability for injury or death of an employee who was a passenger in an employer-provided vehicle, with 42 A.L.R.6th 545 demonstrating the requisites for and factors affecting applicability of and who may invoke the exclusive remedy rule and an annotation in 43 A.L.R.6th collecting cases showing against whom the rule may be invoked and the application of the rule to particular situations and employees. These and other annotations of note are further highlighted below.

*Douglas S. Jurenko, Editor, and Brenda M. Williamson, J.D.*

## Highlights

### AMUSEMENTS AND EXHIBITIONS

#### Liability Arising from Postponement or Cancellation of Concert

Putting on a concert, especially one involving a major performer, involves a large outlay on the part of the promoter for advertising, ticket sales, permits, and the like, long before the concert takes place. Similarly, localities and arenas count on a performing artist's ability to draw huge crowds to give a boost to the local economy. Thus, when the performer suddenly cancels a concert, the promoters, stadium operators, and the like, understandably seek legal redress to recover expenses and/or anticipated profits. On the other hand, a performer who is not feeling well can permanently harm his or her voice or otherwise injure him- or herself significantly by performing when he or she should be resting in bed. Moreover, quite often it is city officials or promoters who cancel a contract, based



on justifications such as the performer becoming controversial, anticipated violence at the concert, or even poor advance ticket sales. Courts have reached a variety of conclusions as to liability for the cancellation of a concert, as this annotation illustrates. 42 A.L.R.6th 1

### MEDICAL EXPERIMENTS OR TESTS

#### Experiments on Humans

The very concept of nontherapeutic, nonconsensual human medical research and experimentation is one which shocks the conscience. Nazi medical atrocities of this kind horrified the world when they were given prominence at the post World War II Nuremberg trials. On the other hand, it is clear that in order for medical science to advance, in most instances drugs, therapies, or particular lines of scientific research must be tried



for the mere purpose of instituting a criminal prosecution against him or her. It has also been defined as the conception and planning of an offense by a law enforcement officer and the procurement of its commission by one who would not have perpetrated it except for the trickery, persuasion, or fraud of the officer. In essence, the defense of entrapment prohibits law enforcement officials from instigating criminal acts by otherwise innocent persons in order to punish them. The defense of entrapment is a judicially created 20th century American doctrine that probably evolved from the increasing use of informers and undercover agents in the detection of crimes, particularly liquor and narcotics offenses. In the federal court system, the defense has been recognized and refined in many decisions, and it has been universally accepted by the states through judicial decision or legislation. Entrapment is an affirmative defense that must be raised by the defendant. It is in the nature of a confession and avoidance. The issue arises in state cases as to the adequacy of defense counsel's representation of a criminal client regarding the entrapment defense. This annotation will discuss the state cases that have determined the adequacy, competency, and effectiveness of defense counsel's representation of a criminal defendant concerning matters pertaining to the entrapment defense. 43 A.L.R.6th

## SCIENCE AND SCIENTIFIC MATTERS

### Admissibility of Biomedical Engineer Testimony

The admissibility of biomedical engineer testimony is tested under the evidentiary standards applied to scientific expert testimony in general. This annotation will

collect and discuss all of the cases that have considered the admissibility of the testimony of a biomedical engineer. 43 A.L.R.6th

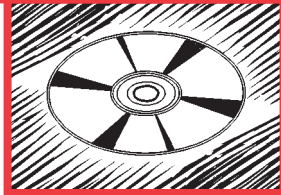
## WORKERS' COMPENSATION

### Construction and Application of Exclusive Remedy Rule Under State Workers' Compensation Statutes with Respect to Liability for Injury or Death of Employee as Passenger in Employer-Provided Vehicle—Against Whom May Rule Be Invoked and Application of Rule to Particular Situations and Employees

Generally, employees who are injured while riding as passengers in an employer-provided vehicle have a right to workers' compensation benefits. Most employees, however, would rather bring a personal injury action against the employer, driver, or others involved in the accident in order to obtain more compensation. The barrier that they have to overcome is the "exclusive remedy" rule in the workers' compensation statutes which provides that the benefits given by the statute are the employee's sole and exclusive remedy and that the employee cannot bring a personal injury action. This annotation will collect and analyze the cases that discuss the construction and application of the exclusive remedy rule under a state workers' compensation statute with respect to the liability for injury or death of an employee as a passenger in an employer-provided vehicle, particularly against whom may the rule be invoked and how the rule has been applied to particular situations and employees. 43 A.L.R.6th

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The following is a complete list arranged alphabetically by topic, of annotations contained in the current volume 42 A.L.R.6th or scheduled for publication in 43 A.L.R.6th. Some of the annotations listed may be re-scheduled.



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