

SENATE BILL NO. 98

INTRODUCED BY D. MAHLUM

BY REQUEST OF THE BUSINESS AND LABOR INTERIM COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE WORKERS' COMPENSATION WEEKLY BENEFIT RATE FOR PERMANENT PARTIAL DISABILITY AND THE MAXIMUM WEEKLY PERMANENT PARTIAL DISABILITY PAYMENT; AMENDING SECTION 39-71-703, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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Section 1. Section 39-71-703, MCA, is amended to read:

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"39-71-703. Compensation for permanent partial disability. (1) If an injured worker suffers a permanent partial disability and is no longer entitled to temporary total or permanent total disability benefits, the worker is entitled to a permanent partial disability award if that worker:

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(a) has an actual wage loss as a result of the injury; and

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(b) has a permanent impairment rating that:

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(i) is established by objective medical findings; and

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(ii) is more than zero as determined by the latest edition of the American medical association Guides to the Evaluation of Permanent Impairment.

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(2) When a worker receives an impairment rating as the result of a compensable injury and has no actual wage loss as a result of the injury, the worker is eligible for an impairment award only.

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(3) The permanent partial disability award must be arrived at by multiplying the percentage arrived at through the calculation provided in subsection (5) by 350 weeks.

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(4) A permanent partial disability award granted an injured worker may not exceed a permanent partial disability rating of 100%.

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(5) The percentage to be used in subsection (3) must be determined by adding all of the following applicable percentages to the impairment rating:

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(a) if the claimant is 40 years of age or younger at the time of injury, 0%; if the claimant is over 40 years of age at the time of injury, 1%;

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1 (b) for a worker who has completed less than 12 years of education, 1%; for a worker who has
2 completed 12 years or more of education or who has received a graduate equivalency diploma, 0%;

3 (c) if a worker has no actual wage loss as a result of the industrial injury, 0%; if a worker has an
4 actual wage loss of \$2 or less an hour as a result of the industrial injury, 10%; if a worker has an actual
5 wage loss of more than \$2 an hour as a result of the industrial injury, 20%. Wage loss benefits must be
6 based on the difference between the actual wages received at the time of injury and the wages that the
7 worker earns or is qualified to earn after the worker reaches maximum healing.

8 (d) if a worker, at the time of the injury, was performing heavy labor activity and after the injury
9 the worker can perform only light or sedentary labor activity, 5%; if a worker, at the time of injury, was
10 performing heavy labor activity and after the injury the worker can perform only medium labor activity,
11 3%; if a worker was performing medium labor activity at the time of the injury and after the injury the
12 worker can perform only light or sedentary labor activity, 2%.

13 (6) The weekly benefit rate for permanent partial disability is ~~66-2/3%~~ 75% of the wages received
14 at the time of injury, but the rate may not exceed ~~one-half~~ 75% of the state's average weekly wage. The
15 weekly benefit amount established for an injured worker may not be changed by a subsequent adjustment
16 in the state's average weekly wage for future fiscal years.

17 (7) If a worker suffers a subsequent compensable injury or injuries to the same part of the body,
18 the award payable for the subsequent injury may not duplicate any amounts paid for the previous injury
19 or injuries.

20 (8) If a worker is eligible for a rehabilitation plan, permanent partial disability benefits payable
21 under this section must be calculated based on the wages that the worker earns or would be qualified to
22 earn following the completion of the rehabilitation plan.

23 (9) As used in this section:

24 (a) "heavy labor activity" means the ability to lift over 50 pounds occasionally or up to 50 pounds
25 frequently;

26 (b) "medium labor activity" means the ability to lift up to 50 pounds occasionally or up to 25
27 pounds frequently;

28 (c) "light labor activity" means the ability to lift up to 20 pounds occasionally or up to 10 pounds
29 frequently; and

30 (d) "sedentary labor activity" means the ability to lift up to 10 pounds occasionally or up to 5

1 pounds frequently."

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3 NEW SECTION. **Section 2. Effective date -- applicability.** [This act] is effective July 1, 2001, and
4 applies to a claim for a benefit for an injury occurring on or after July 1, 2001.

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