

HOUSE BILL NO. 164

INTRODUCED BY CALLAHAN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS RELATED TO PERMANENT TOTAL DISABILITY BENEFITS; REMOVING THE PROVISIONS LIMITING A WORKER TO A MAXIMUM OF 10 BENEFIT ADJUSTMENTS AND LIMITING THE ADJUSTMENT PERCENTAGE INCREASE TO 3 PERCENT; AMENDING SECTION 39-71-702, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 39-71-702, MCA, is amended to read:

"39-71-702. Compensation for permanent total disability. (1) If a worker is no longer temporarily totally disabled and is permanently totally disabled, as defined in 39-71-116, the worker is eligible for permanent total disability benefits. Permanent total disability benefits must be paid for the duration of the worker's permanent total disability, subject to 39-71-710.

(2) The determination of permanent total disability must be supported by a preponderance of objective medical findings.

(3) Weekly compensation benefits for an injury resulting in permanent total disability are 66 2/3% of the wages received at the time of the injury. The maximum weekly compensation benefits may not exceed the state's average weekly wage at the time of injury.

(4) In cases in which it is determined that periodic disability benefits granted by the Social Security Act are payable because of the injury, the weekly benefits payable under this section are reduced, but not below zero, by an amount equal, as nearly as practical, to one-half the federal periodic benefits for the week, which amount is to be calculated from the date of the disability social security entitlement.

(5) A worker's benefit amount must be adjusted for a cost-of-living increase on the next July 1 after 104 weeks of permanent total disability benefits have been paid and on each succeeding July 1. ~~A worker may not receive more than 10 adjustments.~~ The adjustment must be the percentage increase, if any, in the state's average weekly wage as adopted by the department over the state's average weekly wage adopted for the previous year ~~or 3%, whichever is less.~~

1 (6) A worker may not receive both wages and permanent total disability benefits without the written
2 consent of the insurer. A worker who receives both wages and permanent total disability benefits without written
3 consent of the insurer is guilty of theft and may be prosecuted under 45-6-301.

4 (7) If the claimant is awarded social security benefits, the insurer may, upon notification of the claimant's
5 receipt of social security benefits, suspend biweekly compensation benefits for a period sufficient to recover any
6 resulting overpayment of benefits. This subsection does not prevent a claimant and insurer from agreeing to a
7 repayment plan."

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9 **NEW SECTION. Section 2. Effective date -- applicability.** [This act] is effective on passage and
10 approval and applies to ~~a claim for benefits filed~~ INJURIES THAT OCCUR on or after [the effective date of this act].

11 - END -