

Montana State Legislature

Exhibit Number:

3

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SB8

**SIMPLIFYING AND CLARIFYING THE WORKERS' COMPENSATION
ACT**

SPONSOR'S PACKET

SENATOR ROUSH

JANUARY 13, 2005

Prepared by

Department of Labor and Industry

Employment Relations Division

**SPEAKING POINTS FOR
SENATOR ROUSH
SB8**

Introduction:

SB8 is the result of the work of the Economic Affairs Committee. Senate Joint Resolution No. 17 authorized a study on workers' compensation simplification and clarification.

An ad hoc working group composed of representatives from the Montana State Fund, private insurers, and self-insurers, claims adjusters, Montana Trial Lawyers' Association, the Montana AFL-CIO, Independent Insurance Agents of Montana, and the Department of Labor & Industry met over a period of 11 months to provide information and recommendations on SJR17. The working group represents many of the major stakeholders in Montana's system.

One of the outcomes resulting from the meetings was a recommendation for legislative changes to workers' compensation statutes that are redundant or in need of revision for clarity or simplification.

SB8 is one of the bills that came out of the committee. It has the support of the committee and the working group who reached consensus on recommending the changes in this bill. It's my understanding some of the stakeholders may have recommendations for amending some of the wording in the bill, but support the proposal to clarify these statutes.

CONCLUSION:

Madame Chair and members of the committee, there are representatives here from the Department of Labor & Industry, the State Fund, and other insurers that will provide greater detail and can answer your questions regarding the specifics of the bill.

In conclusion, I am requesting your support for SB8. Thank you.

SB8 SUMMARY

1. **Section 1 of this bill changes “wage supplement” to “wage-loss” and deletes a reference to repetitive injury claims.**

These changes update the public policy to reflect current terminology in the benefit provisions and clarifies that repetitive injury claims are covered in the system.

2. **Section 2 of this bill strikes the language regarding payments pursuant to 39-71-608.**

The language regarding payments under a reservation of rights that was deleted in Section 2 of this bill is inserted into 39-71-608, MCA in Section 7 of this bill. This change simply places these provisions together in one statute since they relate to the same subject matter.

3. **Section 3 of this bill deletes the reference to 39-71-308, MCA, because that statute is repealed in Section 11 of this bill.**

Section 39-71-308 is being repealed because it dates back to when the “Division of Workers’ Compensation” existed and the State Fund and the regulatory functions of the system were both part of the Division. This change eliminates outdated statute that is not needed.

4. **Section 4 of this bill combines two statutes (39-71-204 and 39-71-318) together since they relate to the same subject matter.**

The language from 39-71-318 is moved into this section – 39-71-204 so that hearing procedures before the department are in the same section of law.

5. **Section 5 of this bill clarifies when and to whom reports of accidents are filed by the employer and when insurers are required to report them to the department. This section also clarifies the provisions for when and to whom penalties may be assessed by the department for failure to file reports.**

This change requires an employer to file a report of every accident, injury, or occupational disease with the employer’s insurer within timelines set out in department rules (currently within six days) and eliminates the need for the employer to file the report with the department. The department doesn’t need to receive the report from the employer because the department gets the report from the insurer.

This change requires an insurer to file with the department every injury or occupational disease and eliminates the requirement to file every accident that doesn’t result in injury; for example, accidents that only require first aid treatment and no follow up medical treatment. This change reduces the amount of paperwork filed with the department.

This change also removes adjusters from the penalty provisions for refusing or neglecting to file reports. Only employers and insurers are required to file reports so a penalty against the adjuster is not appropriate.

6. **Section 6 of this bill clarifies which insurer pays benefits when there is a dispute between insurers over liability for benefits but there's no dispute the injury is work related.** This change is intended to prevent delays in benefit payments to claimants while insurers work out which insurer is liable for benefits.

7. **Section 7 of this bill inserts the language from Section 2 of this bill regarding payments under a reservation of rights.**

The language regarding payments under a reservation of rights that was deleted in Section 2 of this bill is inserted into 39-71-608, MCA in this section of this bill. This change simply places these provisions together in one statute since they relate to the same subject matter.

8. **Section 8 of this bill eliminates the department from approving lump sum payments of impairment awards.**

In cases where the insurer makes a lump sum payment of the impairment award to the claimant without settling the case, no department approval is required. This change is intended to prevent delays in benefit payments to claimants.

9. **Section 9 of this bill eliminates the department from approving lump sum advances and clarifying that future medical benefits in some cases may be settled.**

In cases where the insurer makes a lump sum advance of future wage-loss benefits or lump sum payments for accrued benefits, without settling the case, no department approval is required. This change is intended to prevent delays in benefit payments to claimants.

This section also clarifies that medical benefits may be closed on accepted claims when there's a dispute over the liability of medical benefits. This change allows the parties to close all benefits on a claim.

10. **Section 10 of this bill provides for lump sum payments of vocational rehabilitation benefits under certain circumstances.**

This change allows a lump sum payment of vocational rehabilitation benefits when the rehabilitation plan provides job placement services or there is a dispute over rehabilitation benefits. Benefits paid in accordance with a retraining plan must be paid biweekly to assist with successful completion of the retraining plan.

11. Section 11 of this bill repeals the statutes dealing with the forms of remuneration included in computing payroll, work paid for in property other than money, the neglect or refusal to file payroll reports with the State Fund, and the provisions for holding a hearing before the department.

The statute explaining what forms of remuneration are included in computing payroll is redundant since the forms are included in 39-71-123, MCA, the definition of wages.

The statute explaining work paid for in property other than money is redundant since the property is included in 39-71-123, MCA, the definition of wages.

The statute dealing with an arbitrary assessment by the department to public corporations that refuse or neglect to file payroll reports with the State Fund applies only to the State Fund and dates back to when the "Division of Workers' Compensation" existed and included both the State Fund and the Regulatory functions.

The statute providing provisions for holding a hearing before the department was moved into 39-71-204, MCA, in Section 4 of this bill.

12. Section 12 of this bill is the effective date.