

HOUSE BILL NO. 519

INTRODUCED BY R. NEILL

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ANY IMPAIRMENT RATING QUALIFIES A WORKER FOR PERMANENT PARTIAL DISABILITY BENEFITS UNDER WORKERS' COMPENSATION COVERAGE; AMENDING SECTION 39-71-703, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

"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:

- (a) has an actual wage loss as a result of the injury; and
- (b) has a permanent impairment rating as determined by the sixth edition of the American medical association Guides to the Evaluation of Permanent Impairment for the ratable condition. The ratable condition must be a direct result of the compensable injury or occupational disease that:
 - (i) is not based exclusively on complaints of pain;
 - (ii) is established by objective medical findings; and
 - (iii) is more than zero.

(2) When a worker receives a ~~Class 2 or greater class of an~~ impairment rating as converted to the whole person, as determined by the sixth edition of the American medical association Guides to the Evaluation of Permanent Impairment for the ratable condition, and has no actual wage loss as a result of the compensable injury or occupational disease, the worker is eligible to receive payment for an impairment award only.

(3) The permanent partial disability award must be arrived at by multiplying the percentage arrived at through the calculation provided in subsection (5) by 400 weeks.

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

(5) The percentage to be used in subsection (4) must be determined by adding all of the following applicable percentages to the whole person impairment rating:



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

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

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

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

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

19 (7) An undisputed impairment award may be paid biweekly or in a lump sum at the discretion of the
20 worker. Lump sums paid for impairments are not subject to the requirements of 39-71-741, except that lump-sum
21 payments for benefits not accrued may be reduced to present value at the rate established by the department
22 pursuant to 39-71-741(5).

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

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

28 (10) As used in this section:

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

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

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

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

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8 NEW SECTION. **Section 2. Effective date.** [This act] is effective July 1, 2013.

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