

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/23/17

A Bill

SENATE BILL 682

5 By: Senators D. Sanders, Rapert
6 By: Representative Payton
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW REGARDING DEATH AND PERMANENT
10 TOTAL DISABILITY CLAIMS UNDER THE WORKERS'
11 COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO.
12 4 OF 1948.
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Subtitle

15 TO AMEND THE LAW REGARDING DEATH AND
16 PERMANENT TOTAL DISABILITY CLAIMS UNDER
17 THE WORKERS' COMPENSATION LAW THAT
18 RESULTED FROM INITIATED ACT NO. 4 OF
19 1948.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 11-9-501(b), concerning limitations on
26 workers' compensation for death and disability, is amended to add an
27 additional subdivision to read as follows:

28 (6)(A)(i) For injuries occurring on or after July 1, 2017, in
29 cases of total disability adjudged to be permanent, sixty-six and two-thirds
30 percent (66 2/3%) of the employee's average weekly wage, subject to the
31 maximum limitations as to weekly benefits under this chapter, shall be paid
32 to the employee not to exceed four hundred fifty (450 weeks).

33 (ii) However, the four hundred fifty (450) week
34 limitation under subdivision (b)(6)(A)(i) of this section does not apply to
35 an employee who has sustained a catastrophic physical injury.

36 (B) As used in this subdivision (b)(6) "catastrophic



1 physical injury" means without limitation:

2 (i) Spinal cord injury involving severe
3 paralysis of an arm, leg, or the trunk;

4 (ii) In the absence of clear and convincing
5 proof to the contrary, the loss of both hands, both arms, both legs, both
6 eyes, or any two (2) thereof;

7 (iii) Severe brain or closed head injury that
8 is established by objective medical findings and is evidenced by:

9 (a) Severe sensory or motor
10 disturbances;

11 (b) Severe communication disturbances;

12 (c) Severe complex integrated
13 disturbances of cerebral function;

14 (d) Severe disturbances of
15 consciousness;

16 (e) Severe episodic neurological
17 disorders; or

18 (f) Other conditions at least as severe
19 in nature as any condition provided in subdivision (b)(6)(B)(iii)(a) - (e) of
20 this section; or

21 (D) Second or third degree burns over twenty-
22 five percent (25%) of the body as a whole or third degree burns to five
23 percent (5%) or more of the face or hands; or

24 (E) Total blindness.

25
26 SECTION 2. Arkansas Code § 11-9-501(e), concerning limitations on
27 workers' compensation for death and disability, is amended to read as
28 follows:

29 (e)(1) Compensation payable to the dependents of a deceased employee,
30 except dependents identified in § 11-9-527(d)(2), shall be in addition to the
31 funeral allowance and those benefits which were paid or to which the injured
32 employee was entitled in his or her lifetime under §§ 11-9-508 – 11-9-517 and
33 §§ 11-9-519 – 11-9-526.

34 (2) Compensation under subdivision (e)(i) of this section shall
35 not exceed four hundred fifty (450) weeks.

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1 SECTION 3. Arkansas Code § 11-9-502(a) and (b), concerning exceptions
2 to limitations on worker's compensation, are amended to read as follows:

3 (a)(1) The benefits shall be paid for a period not to exceed four
4 hundred fifty (450) weeks of disability, except that this limitation shall
5 not apply in cases of ~~permanent total disability or death~~ catastrophic
6 physical injuries as defined in § 11-9-501(b)(6) or compensation to
7 dependents of a deceased employee under § 11-9-527(d)(2).

8 (2)(A) Benefits payable under this act for a catastrophic
9 physical injury as defined in § 11-9-501(b)(6) shall be paid until the
10 condition of the employee improves and he or she is no longer totally
11 incapacitated from earning meaningful wages in the same or other employment.

12 (B) The employer has the burden of proving that the
13 condition of the employee has improved and he or she is no longer totally
14 incapacitated from earning meaningful wages in the same or other employment.

15 (b)(1)(A) For injuries occurring on or after March 1, 1981, but on or
16 before December 31, 2007, and a claim for death or permanent total disability
17 benefits filed on or before June 30, 2019, the first seventy-five thousand
18 dollars (\$75,000) of weekly benefits for death or permanent total disability
19 shall be paid by the employer or its insurance carrier in the manner provided
20 in this chapter.

21 (B) For injuries occurring on or after January 1, 2008,
22 and a claim for death or permanent total disability benefits filed on or
23 before June 30, 2019, the employer or its insurance carrier shall pay weekly
24 benefits for death or permanent total disability not to exceed three hundred
25 twenty-five (325) times the maximum total disability rate established for the
26 date of the injury under this chapter.

27 (2)(A) An employee or a dependent of an employee who has filed a
28 claim for death or permanent total disability benefits on or before June 30,
29 2019, and who receives a total of seventy-five thousand dollars (\$75,000) in
30 weekly benefits for injuries sustained on or before December 31, 2007, shall
31 be eligible to continue to draw benefits at the rates prescribed in this
32 chapter, but all benefits in excess of seventy-five thousand dollars
33 (\$75,000) shall be payable from the Death and Permanent Total Disability
34 Trust Fund.

35 (B) An employee or a dependent of an employee who has
36 filed a claim for death or permanent total disability benefits on or before

1 June 30, 2019, and who receives the maximum amount specified in subdivision
2 (b)(1)(B) of this section shall be eligible to continue to draw benefits at
3 the rates prescribed by this chapter payable from the trust fund.

4 (3) Except as provided in § 11-9-501(b)(6), § 11-9-501(e), and §
5 subsection (a) of this section, for injuries occurring on or after July 1,
6 2017, weekly benefits for permanent total disability or death shall not
7 exceed four hundred fifty (450) weeks.

8 ~~(3)(4)~~ The trust fund shall consist of such funds as may be
9 prescribed by law and shall be administered, invested, and disbursed by the
10 Workers' Compensation Commission.

11 ~~(4)(5)~~ Each employer or the insurance carrier of the employer in
12 each case of death of an employee where there are no dependents shall pay
13 into the trust fund the sum of five hundred dollars (\$500).
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15 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that the limitations on worker's
17 compensation benefits created in this act are essential to the economic
18 sustainability of the workers' compensation system in this state; that the
19 immediate effectiveness of this act is essential to the operations of the
20 Workers' Compensation Commission, and that a delay in the effective date of
21 this act could work irreparable harm upon the workers' compensation system in
22 this state. Therefore, an emergency is declared to exist, and this act being
23 immediately necessary for the preservation of the public peace, health, and
24 safety shall become effective on:

25 (1) The date of its approval by the Governor;

26 (2) If the bill is neither approved nor vetoed by the Governor,
27 the expiration of the period of time during which the Governor may veto the
28 bill; or

29 (3) If the bill is vetoed by the Governor and the veto is
30 overridden, the date the last house overrides the veto.

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32 /s/D. Sanders
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