

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/16/07
A Bill

HOUSE BILL 2674

5 By: Representative Anderson
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE § 11-9-525
10 CONCERNING COMPENSATION FOR SECOND INJURIES; TO
11 AMEND A PROTION OF THE ARKANSAS CODE WHICH
12 RESULTED FROM INITIATED ACT 4 OF 1948; AND FOR
13 OTHER PURPOSES.
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Subtitle

15 AN ACT TO AMEND ARKANSAS CODE § 11-9-525
16 CONCERNING COMPENSATION FOR SECOND
17 INJURIES AND TO AMEND A PROTION OF THE
18 ARKANSAS CODE WHICH RESULTED FROM
19 INITIATED ACT 4 OF 1948.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 11-9-525 is amended to read as follows:
26 11-9-525. Compensation for disability - Second injuries.

27 (a)(1) The Second Injury Trust Fund established in this chapter is a
28 special fund designed to ensure that an employer employing a handicapped
29 worker will not, in the event that the worker suffers an injury on the job,
30 be held liable for a greater disability or impairment than actually occurred
31 while the worker was in his or her employment.

32 (2) The employee is to be fully protected in that the fund pays
33 the worker the difference between the employer's liability and the balance of
34 his or her disability or impairment which results from all disabilities or
35 impairments combined.

36 (3) It is intended that latent conditions which are not known to



1 the employee or employer not be considered previous disabilities or
2 impairments which would give rise to a claim against the fund.

3 (b)(1) Commencing January 1, 1981, all cases of permanent disability
4 or impairment where there has been previous disability or impairment shall be
5 compensated as provided in this section.

6 (2) Compensation shall be computed on the basis of the average
7 earnings at the time of the last injury.

8 (3) If any employee who has a permanent partial disability or
9 impairment, whether from compensable injury or otherwise, receives a
10 subsequent compensable injury resulting in additional permanent partial
11 disability or impairment so that the degree or percentage of disability or
12 impairment caused by the combined disabilities or impairments is greater than
13 that which would have resulted from the last injury, considered alone and of
14 itself, and if the employee is entitled to receive compensation on the basis
15 of combined disabilities or impairments, then the employer at the time of the
16 last injury shall be liable only for the degree or percentage of disability
17 or impairment which would have resulted from the last injury had there been
18 no preexisting disability or impairment.

19 (4) After the compensation liability of the employer for the
20 last injury, considered alone, which shall be no greater than the actual
21 anatomical impairment resulting from the last injury, has been determined by
22 an administrative law judge or the Workers' Compensation Commission, the
23 degree or percentage of employee's disability that is attributable to all
24 injuries or conditions existing at the time the last injury was sustained
25 shall then be determined by the administrative law judge or the commission,
26 and the degree or percentage of disability or impairment which existed prior
27 to the last injury plus the disability or impairment resulting from the
28 combined disability shall be determined, and compensation for that balance,
29 if any, shall be paid out of the fund provided for in § 11-9-301.

30 (5) If the previous disability or impairment, whether from
31 compensable injury or otherwise, and the last injury together result in
32 permanent total disability, the employer at the time of the last injury shall
33 be liable only for the actual anatomical impairment resulting from the last
34 injury considered alone and of itself. However, if the compensation for which
35 the employer at the time of the last injury is liable is less than the
36 compensation provided in §§ 11-9-501 - 11-9-506 for permanent total

1 disability, then, in addition to the compensation for which the employer is
2 liable and after the completion of payment of compensation by the employer,
3 the employee shall be paid the remainder of the compensation that would be
4 due for permanent total disability under §§ 11-9-501 - 11-9-506 out of the
5 fund.

6 (6) The Treasurer of State shall be the custodian of the fund,
7 and any interest accruing shall be added thereto.

8 (7) The commission shall direct the distribution of the funds
9 from the fund.

10 (c)(1) In all cases in which a recovery against the fund is sought for
11 permanent partial disability or for permanent total disability, the Treasurer
12 of State as custodian shall be named as a party and shall be entitled to
13 defend against the claim.

14 (2) The Treasurer of State, with the advice and consent of the
15 Attorney General, may enter into settlements as contemplated by §§ 11-9-804
16 and 11-9-805.

17 (3) All awards for permanent partial disability or for permanent
18 total disability affecting the fund shall be subject to the provisions of the
19 Workers' Compensation Law, § 11-9-101 et seq., governing review and appeal.

20 (d)(1) If more than one (1) injury in the same employment causes
21 concurrent temporary disabilities, weekly benefits shall be payable only for
22 the longest and largest paying disability.

23 (2) If more than one (1) injury in the same employment causes
24 concurrent and consecutive permanent partial disability, weekly benefits for
25 each subsequent disability shall not begin until the end of the compensation
26 period for the prior disability.

27 (e) No claims under this section shall be made on or after
28 January 1, 2008.

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30 /s/ Anderson
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