

1 State of Arkansas  
2 89th General Assembly  
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4

*As Engrossed: S3/5/13*

## A Bill

SENATE BILL 515

5 By: Senators Bledsoe, Hester, Bookout, A. Clark, J. Dismang, J. English, Files, J. Hendren, Hickey, D.  
6 Sanders, G. Stubblefield, J. Woods  
7

### For An Act To Be Entitled

9 AN ACT TO RESTORE THE LAW AND CONSISTENCY IN  
10 TEMPORARY TOTAL DISABILITY BENEFIT DETERMINATIONS AND  
11 EMPLOYEE MISCONDUCT AS A BASIS FOR TERMINATION; AND  
12 FOR OTHER PURPOSES.  
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### Subtitle

16 AN ACT TO RESTORE THE LAW AND CONSISTENCY  
17 IN TEMPORARY TOTAL DISABILITY BENEFIT  
18 DETERMINATIONS AND EMPLOYEE MISCONDUCT AS  
19 A BASIS FOR TERMINATION.  
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21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 11-9-521(a), concerning worker's  
25 compensation for total disability, is amended to read as follows:

26 ~~(a) An employee who sustains a permanent compensable injury scheduled~~  
27 ~~in this section shall receive, in addition to compensation for temporary~~  
28 ~~total and temporary partial benefits during the healing period or until the~~  
29 ~~employee returns to work, whichever occurs first, weekly benefits in the~~  
30 ~~amount of the permanent partial disability rate attributable to the injury,~~  
31 ~~for that period of time set out in the following schedule~~

32 (a)(1) An employee who sustains a compensable injury scheduled in this  
33 section is entitled to temporary total benefits, temporary partial benefits,  
34 or both during the healing period if the employer does not have work  
35 available within the employee's medical restrictions arising from the injury.

36 (2) When an employee is terminated for cause based on the



1 employee's misconduct and the employer has work available within the former  
2 employee's medical restrictions from the workers' compensation injury, the  
3 former employee is not entitled to temporary total or temporary partial  
4 disability benefits.

5 (3) An employee who sustains a permanent compensable injury  
6 scheduled in this section is entitled to weekly benefits in the amount of the  
7 permanent partial disability rate attributable to the injury for the time set  
8 out in the following schedule:

9 ~~(1)~~(A) Arm amputated at the elbow, or between the elbow  
10 and shoulder, two hundred forty-four (244) weeks;

11 ~~(2)~~(B) Arm amputated between the elbow and wrist, one  
12 hundred eighty-three (183) weeks;

13 ~~(3)~~(C) Leg amputated at the knee, or between the knee and  
14 the hip, one hundred eighty-four (184) weeks;

15 ~~(4)~~(D) Leg amputated between the knee and the ankle, one  
16 hundred thirty-one (131) weeks;

17 ~~(5)~~(E) Hand amputated, one hundred eighty-three (183)  
18 weeks;

19 ~~(6)~~(F) Thumb amputated, seventy-three (73) weeks;

20 ~~(7)~~(G) First finger amputated, forty-three (43) weeks;

21 ~~(8)~~(H) Second finger amputated, thirty-seven (37) weeks;

22 ~~(9)~~(I) Third finger amputated, twenty-four (24) weeks;

23 ~~(10)~~(J) Fourth finger amputated, nineteen (19) weeks;

24 ~~(11)~~(K) Foot amputated, one hundred thirty-one (131)  
25 weeks;

26 ~~(12)~~(L) Great toe amputated, thirty-two (32) weeks;

27 ~~(13)~~(M) Toe other than great toe amputated, eleven (11)  
28 weeks;

29 ~~(14)~~(N) Eye enucleated, in which there was useful vision,  
30 one hundred five (105) weeks;

31 ~~(15)~~(O) Loss of hearing of one ear, forty-two (42) weeks;

32 ~~(16)~~(P) Loss of hearing of both ears, one hundred fifty-  
33 eight (158) weeks; and

34 ~~(17)~~(Q) Loss of one testicle, fifty-three (53) weeks; loss  
35 of both testicles, one hundred fifty-eight (158) weeks.

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SECTION 2. Arkansas Code § 11-9-526 is amended to read as follows:

11-9-526. Compensation for disability – Refusal of employee to accept employment – Termination for misconduct.

~~If any injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, he or she shall not be entitled to any compensation during the continuance of the refusal, unless in the opinion of the Workers' Compensation Commission, the refusal is justifiable~~

(a) If an injured employee refuses employment suitable to his or her capacity offered to or procured for him or her, the injured employee is not entitled to compensation during the continuance of the refusal, unless in the opinion of the Workers' Compensation Commission, the refusal is justifiable.

(b) If an employee is terminated for cause based on the employee's misconduct and the employer has work available within the former employee's medical restrictions resulting from the workers' compensation injury, the former employee is not entitled to temporary total or temporary partial disability benefits.

(c) The purpose and intent of this section is to reverse specifically any case law providing that former employees who are properly terminated for misconduct are entitled to temporary total or temporary partial disability benefits if the employer has work available within the former employee's restrictions, including without limitation, Tyson Poultry, Inc. v. Narvaiz, 2012 Ark. 118 (2012); and Superior Industries v. Thomaston, 72 Ark. App. 7, 32 S.W.3d 52 (2000).

*/s/Bledsoe*