

SENATE BILL NO. 195—SENATOR CARLTON

MARCH 10, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing workers' compensation.
(BDR 53-1077)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; revising provisions relating to examinations and permanent partial disabilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires that the Fifth Edition, rather than the most recent
2 edition, of the American Medical Association's *Guides to the Evaluation of*
3 *Permanent Impairment* must be applied in all examinations for a permanent partial
4 disability. **Sections 1 and 2** of this bill also eliminate the requirement that no factor
5 other than the degree of physical impairment of the whole man may be considered
6 in calculating the entitlement to compensation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 616C.110 is hereby amended to read as
2 follows:
3 616C.110 1. For the purposes of NRS 616B.557, 616B.578,
4 616B.587, 616C.490 and 617.459 ~~1~~
5 ~~—(a) Not~~, ***not*** later than August 1, 2003, the Division shall adopt
6 regulations incorporating the American Medical Association's
7 *Guides to the Evaluation of Permanent Impairment*, 5th edition, by
8 reference. The regulations:
9 ~~[(1)]~~ ***(a)*** Must ~~become effective on October 1, 2003; and~~
10 ~~—(2) Must be applied to all examinations for a permanent~~
11 ~~partial disability that are conducted on or after October 1, 2003;~~



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1 regardless of the date of the injury, until regulations incorporating
2 the 6th edition by reference have become effective pursuant to
3 paragraph (b).

4 ~~—(b) Beginning with the 6th edition and continuing for each~~
5 ~~edition thereafter, the Division shall adopt regulations incorporating~~
6 ~~the most recent edition of the American Medical Association's~~
7 ~~Guides to the Evaluation of Permanent Impairment by reference.~~
8 ~~The regulations:~~

9 ~~—(1) Must become effective not later than 18 months after the~~
10 ~~most recent edition is published by the American Medical~~
11 ~~Association; and~~

12 ~~—(2) *provide that the American Medical Association's*~~
13 ~~*Guides to the Evaluation of Permanent Impairment, Fifth Edition,*~~
14 ~~*must be applied to all examinations; and*~~

15 (b) Must be applied to all examinations for a permanent partial
16 disability that are conducted on or after the effective date of the
17 regulations, regardless of the date of injury . ~~[-until regulations~~
18 ~~incorporating the next edition by reference have become effective~~
19 ~~pursuant to this paragraph.]~~

20 2. After adopting the regulations required pursuant to
21 subsection 1, the Division may amend those regulations as it deems
22 necessary, except that the amendments to those regulations:

23 (a) Must be consistent with the ~~[edition]~~ *Fifth Edition* of the
24 American Medical Association's Guides to the Evaluation of
25 Permanent Impairment ~~[most recently adopted by the Division];~~ ;
26 *and*

27 (b) Must not incorporate any contradictory matter from any
28 other edition of the American Medical Association's Guides to the
29 Evaluation of Permanent Impairment . ~~[-and~~

30 ~~—(c) Must not consider any factors other than the degree of~~
31 ~~physical impairment of the whole man in calculating the entitlement~~
32 ~~to compensation.]~~

33 3. If the ~~[edition]~~ *Fifth Edition* of the American Medical
34 Association's Guides to the Evaluation of Permanent Impairment
35 ~~[most recently adopted by the Division]~~ contains more than one
36 method of determining the rating of an impairment, the
37 Administrator shall designate by regulation the method from that
38 edition which must be used to rate an impairment pursuant to
39 NRS 616C.490.

40 **Sec. 2.** NRS 616C.490 is hereby amended to read as follows:

41 616C.490 1. Except as otherwise provided in NRS 616C.175,
42 every employee, in the employ of an employer within the provisions
43 of chapters 616A to 616D, inclusive, of NRS, who is injured by an
44 accident arising out of and in the course of employment is entitled to
45 receive the compensation provided for permanent partial disability.



1 As used in this section, “disability” and “impairment of the whole
2 man” are equivalent terms.

3 2. Within 30 days after receiving from a physician or
4 chiropractor a report indicating that the injured employee may have
5 suffered a permanent disability and is stable and ratable, the insurer
6 shall schedule an appointment with the rating physician or
7 chiropractor selected pursuant to this subsection to determine the
8 extent of the employee’s disability. Unless the insurer and the
9 injured employee otherwise agree to a rating physician or
10 chiropractor:

11 (a) The insurer shall select the rating physician or chiropractor
12 from the list of qualified rating physicians and chiropractors
13 designated by the Administrator, to determine the percentage of
14 disability in accordance with the American Medical Association’s
15 Guides to the Evaluation of Permanent Impairment as adopted and
16 supplemented by the Division pursuant to NRS 616C.110.

17 (b) Rating physicians and chiropractors must be selected in
18 rotation from the list of qualified physicians and chiropractors
19 designated by the Administrator, according to their area of
20 specialization and the order in which their names appear on the list
21 unless the next physician or chiropractor is currently an employee of
22 the insurer making the selection, in which case the insurer must
23 select the physician or chiropractor who is next on the list and who
24 is not currently an employee of the insurer.

25 3. If an insurer contacts the treating physician or chiropractor
26 to determine whether an injured employee has suffered a permanent
27 disability, the insurer shall deliver to the treating physician or
28 chiropractor that portion or a summary of that portion of the
29 American Medical Association’s Guides to the Evaluation of
30 Permanent Impairment as adopted by the Division pursuant to NRS
31 616C.110 that is relevant to the type of injury incurred by the
32 employee.

33 4. At the request of the insurer, the injured employee shall,
34 before an evaluation by a rating physician or chiropractor is
35 performed, notify the insurer of:

36 (a) Any previous evaluations performed to determine the extent
37 of any of the employee’s disabilities; and

38 (b) Any previous injury, disease or condition sustained by the
39 employee which is relevant to the evaluation performed pursuant to
40 this section.

41 ➔ The notice must be on a form approved by the Administrator and
42 provided to the injured employee by the insurer at the time of the
43 insurer’s request.

44 5. Unless the regulations adopted pursuant to NRS 616C.110
45 provide otherwise, a rating evaluation must include an evaluation of



1 the loss of motion, sensation and strength of an injured employee if
2 the injury is of a type that might have caused such a loss. ~~No~~
3 ~~factors other than the degree of physical impairment of the whole~~
4 ~~man may be considered in calculating the entitlement to~~
5 ~~compensation for a permanent partial disability.]~~

6 6. The rating physician or chiropractor shall provide the insurer
7 with his evaluation of the injured employee. After receiving the
8 evaluation, the insurer shall, within 14 days, provide the employee
9 with a copy of the evaluation and notify the employee:

10 (a) Of the compensation to which he is entitled pursuant to this
11 section; or

12 (b) That he is not entitled to benefits for permanent partial
13 disability.

14 7. Each 1 percent of impairment of the whole man must be
15 compensated by a monthly payment:

16 (a) Of 0.5 percent of the claimant's average monthly wage for
17 injuries sustained before July 1, 1981;

18 (b) Of 0.6 percent of the claimant's average monthly wage for
19 injuries sustained on or after July 1, 1981, and before June 18, 1993;

20 (c) Of 0.54 percent of the claimant's average monthly wage for
21 injuries sustained on or after June 18, 1993, and before January 1,
22 2000; and

23 (d) Of 0.6 percent of the claimant's average monthly wage for
24 injuries sustained on or after January 1, 2000.

25 ➤ Compensation must commence on the date of the injury or the
26 day following the termination of temporary disability compensation,
27 if any, whichever is later, and must continue on a monthly basis for
28 5 years or until the claimant is 70 years of age, whichever is later.

29 8. Compensation benefits may be paid annually to claimants
30 who will be receiving less than \$100 a month.

31 9. Where there is a previous disability, as the loss of one eye,
32 one hand, one foot ~~H~~ or any other previous permanent disability,
33 the percentage of disability for a subsequent injury must be
34 determined by computing the percentage of the entire disability and
35 deducting therefrom the percentage of the previous disability as it
36 existed at the time of the subsequent injury.

37 10. The Division may adopt schedules for rating permanent
38 disabilities resulting from injuries sustained before July 1, 1973, and
39 reasonable regulations to carry out the provisions of this section.

40 11. The increase in compensation and benefits effected by the
41 amendment of this section is not retroactive for accidents which
42 occurred before July 1, 1973.

43 12. This section does not entitle any person to double payments
44 for the death of an employee and a continuation of payments for a



- 1 permanent partial disability, or to a greater sum in the aggregate
- 2 than if the injury had been fatal.
- 3 **Sec. 3.** This act becomes effective upon passage and approval.

