

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 338

Introduced by Assembly Member Coto

February 14, 2007

An act to amend Section ~~4654~~ 4656 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as amended, Coto. Workers' compensation: ~~permanent disability.~~ *temporary disability payments.*

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law prohibits aggregate disability payments for a single injury occurring on or after April 19, 2004, causing temporary disability from extending for more than 104 compensable weeks within a period of 2 years from the date of commencement of temporary disability payment, except if an employee suffers from certain injuries or conditions.

This bill would prohibit aggregate disability payments for a single injury occurring on or after January 1, 2008, causing temporary disability from extending for more than 156 compensable weeks within a period of 5 years from the date of injury, with specified exceptions.

~~Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires the payment of disability benefits to eligible individuals for injuries sustained in the~~

~~course of employment that cause permanent disability, and specifies that the amount of those payments be computed in accordance with a prescribed formula. Existing law required the administrative director, on or before July 1, 2004, to present to the Governor recommendations on how to provide better access to funds paid to injured workers in light of the requirements of federal and state laws and regulations governing the negotiability of disability indemnity payments, and to make specific recommendations regarding payments to migratory and seasonal farmworkers.~~

~~This bill would delete that obsolete reporting requirement, and would require the administrative director, on or before July 1, 2008, to present to the Governor an evaluation of the benefits, if any, to injured workers as a result of the utilization of electronic funds transfers of funds owed to those injured workers.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~*no*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 4656 of the Labor Code is amended to*
 2 *read:*
 3 4656. (a) Aggregate disability payments for a single injury
 4 occurring prior to January 1, 1979, causing temporary disability
 5 shall not extend for more than 240 compensable weeks within a
 6 period of five years from the date of the injury.
 7 (b) Aggregate disability payments for a single injury occurring
 8 on or after January 1, 1979, and prior to ~~the effective date of~~
 9 ~~subdivision (e)~~ *April 19, 2004*, causing temporary partial disability
 10 shall not extend for more than 240 compensable weeks within a
 11 period of five years from the date of the injury.
 12 (c) (1) Aggregate disability payments for a single injury
 13 occurring on or after ~~the effective date of this subdivision~~ *April*
 14 *19, 2004, and prior to January 1, 2008*, causing temporary
 15 disability shall not extend for more than 104 compensable weeks
 16 within a period of two years from the date of commencement of
 17 temporary disability payment.
 18 (2) Notwithstanding paragraph (1), for an employee who suffers
 19 from the following injuries or conditions, aggregate disability
 20 payments for a single injury occurring on or after ~~the effective~~
 21 ~~date of this subdivision~~ *April 19, 2004, and prior to January 1,*

1 2008, causing temporary disability shall not extend for more than
2 240 compensable weeks within a period of five years from the
3 date of the injury:

- 4 (A) Acute and chronic hepatitis B.
- 5 (B) Acute and chronic hepatitis C.
- 6 (C) Amputations.
- 7 (D) Severe burns.
- 8 (E) Human immunodeficiency virus (HIV).
- 9 (F) High-velocity eye injuries.
- 10 (G) Chemical burns to the eyes.
- 11 (H) Pulmonary fibrosis.
- 12 (I) Chronic lung disease.

13 *(d) (1) Aggregate disability payments for a single injury*
14 *occurring on or after January 1, 2008, causing temporary disability*
15 *shall not extend for more than 156 compensable weeks within a*
16 *period of five years from the date of injury, unless extended*
17 *pursuant to paragraph (2) or (3).*

18 *(2) Notwithstanding paragraph (1), for an employee who suffers*
19 *from the following injuries or conditions, aggregate disability*
20 *payments for a single injury occurring on or after January 1, 2008,*
21 *causing temporary disability shall, except as provided in paragraph*
22 *(3), not extend for more than 240 compensable weeks within a*
23 *period of five years from the date of the injury:*

- 24 (A) Acute and chronic hepatitis B.
- 25 (B) Acute and chronic hepatitis C.
- 26 (C) Amputations.
- 27 (D) Severe burns.
- 28 (E) Human immunodeficiency virus (HIV).
- 29 (F) High-velocity eye injuries.
- 30 (G) Chemical burns to the eyes.
- 31 (H) Pulmonary fibrosis.
- 32 (I) Chronic lung disease.

33 *(3) For purposes of this subdivision, the aggregate number of*
34 *weeks of payment shall be extended by the time when any of the*
35 *following occur:*

- 36 (A) *Temporary disability benefits are payable for any period*
37 *after the filing of a claim form and after notice of the disability to*
38 *the employer, other than the three-day waiting period, which*
39 *accrued more than 14 days prior to the date of payment.*

1 (B) Temporary disability benefits are payable for any period
2 while the provision of medical treatment to the employee is delayed
3 by an employer’s objection made or purporting to be made
4 pursuant to Section 4062 and the dispute is ultimately decided in
5 favor of providing the disputed treatment.

6 (C) Temporary disability benefits are payable for any period
7 while the provision of medical treatment to the employee is delayed
8 by the employer’s conduct of utilization review pursuant to Section
9 4610 if the employer fails to communicate the utilization review
10 determination within the time requirements of Section 4610.

11 (D) Temporary disability benefits are payable for any period
12 while the provision of medical treatment to the employee is delayed
13 by a utilization review determination if the determination is timely
14 disputed by the employee and ultimately decided in favor of
15 providing the disputed medical treatment, unless the employer
16 demonstrates that the ultimate decision is based on information
17 that could not reasonably have been obtained by the employer
18 within the time allowed for a utilization review determination
19 under Section 4610.

20 (e) In the case of an employee who is entitled to a leave of
21 absence without loss of salary pursuant to Article 6 (commencing
22 with Section 4800) or Article 7 (commencing with Section 4850),
23 the one-year limitation on that leave of absence shall be extended
24 for any period when provision of medical treatment to the employee
25 is delayed under circumstances, which would extend the running
26 of the aggregate limit on temporary disability benefits pursuant
27 to subdivision (d).

28 SECTION 1. Section 4651 of the Labor Code is amended to
29 read:

30 ~~4651. (a) No disability indemnity payment shall be made by~~
31 ~~any written instrument unless it is immediately negotiable and~~
32 ~~payable in cash, on demand, without discount at some established~~
33 ~~place of business in the state.~~

34 ~~Nothing in this section shall prohibit an employer from~~
35 ~~depositing the disability indemnity payment in an account in any~~
36 ~~bank, savings and loan association or credit union of the~~
37 ~~employee’s choice in this state, provided the employee has~~
38 ~~voluntarily authorized the deposit, nor shall it prohibit an employer~~
39 ~~from electronically depositing the disability indemnity payment~~
40 ~~in an account in any bank, savings and loan association, or credit~~

1 union, that the employee has previously authorized to receive
2 electronic deposits of payroll, unless the employee has requested,
3 in writing, that disability indemnity benefits not be electronically
4 deposited in the account.

5 (b) It is not a violation of this section if a delay in the negotiation
6 of a written instrument is caused solely by the application of state
7 or federal banking laws or regulations.

8 (c) On or before July 1, 2008, the administrative director shall
9 present to the Governor an evaluation of the benefits, if any, to
10 injured workers as a result of the utilization of electronic funds
11 transfers of funds owed to those injured workers. The Commission
12 on Health and Safety and Workers' Compensation and the
13 Employment Development Department shall assist the
14 administrative director in the completion of this report.

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