

AMENDED IN SENATE SEPTEMBER 6, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 338

Introduced by Assembly Member Coto
(Principal coauthor: Assembly Member Benoit)

February 14, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

AB 338, as amended, Coto. Workers' compensation: 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, for a single injury occurring on or after January 1, 2008, increase to 5 years from the date of injury, the period of time during which an employee can receive aggregate disability payments.

Vote: majority. Appropriation: no. Fiscal committee: 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 (c),~~ 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, causing temporary disability shall not extend for more
15 than 104 compensable weeks within a period of two years from
16 the date of commencement of temporary disability payment.

17 (2) Aggregate disability payments for a single injury occurring
18 on or after January 1, 2008, causing temporary disability shall
19 not extend for more than 104 compensable weeks within a period
20 of five years from the date of injury.

21 ~~(2)~~

22 (3) Notwithstanding ~~paragraph~~ paragraphs (1) and (2), for an
23 employee who suffers from the following injuries or conditions,
24 aggregate disability payments for a single injury occurring on or
25 after ~~the effective date of this subdivision,~~ April 19, 2004, causing
26 temporary disability shall not extend for more than 240
27 compensable weeks within a period of five years from the date of
28 the injury:

- 29 (A) Acute and chronic hepatitis B.
- 30 (B) Acute and chronic hepatitis C.
- 31 (C) Amputations.

- 1 (D) Severe burns.
- 2 (E) Human immunodeficiency virus (HIV).
- 3 (F) High-velocity eye injuries.
- 4 (G) Chemical burns to the eyes.
- 5 (H) Pulmonary fibrosis.
- 6 (I) Chronic lung disease.

7 SECTION 1. ~~Section 4656 of the Labor Code is amended to~~
8 ~~read:~~

9 ~~4656. (a) Aggregate disability payments for a single injury~~
10 ~~occurring prior to January 1, 1979, causing temporary disability~~
11 ~~shall not extend for more than 240 compensable weeks within a~~
12 ~~period of five years from the date of the injury.~~

13 ~~(b) Aggregate disability payments for a single injury occurring~~
14 ~~on or after January 1, 1979, and prior to April 19, 2004, causing~~
15 ~~temporary partial disability shall not extend for more than 240~~
16 ~~compensable weeks within a period of five years from the date of~~
17 ~~the injury.~~

18 ~~(c) (1) Aggregate disability payments for a single injury~~
19 ~~occurring on or after April 19, 2004, and prior to January 1, 2008,~~
20 ~~causing temporary disability shall not extend for more than 104~~
21 ~~compensable weeks within a period of two years from the date of~~
22 ~~commencement of temporary disability payments.~~

23 ~~(2) Notwithstanding paragraph (1), for an employee who suffers~~
24 ~~from the following injuries or conditions, aggregate disability~~
25 ~~payments for a single injury occurring on or after April 19, 2004,~~
26 ~~and prior to January 1, 2008, causing temporary disability shall~~
27 ~~not extend for more than 240 compensable weeks within a period~~
28 ~~of five years from the date of the injury:~~

- 29 ~~(A) Acute and chronic hepatitis B.~~
- 30 ~~(B) Acute and chronic hepatitis C.~~
- 31 ~~(C) Amputations.~~
- 32 ~~(D) Severe burns.~~
- 33 ~~(E) Human immunodeficiency virus (HIV).~~
- 34 ~~(F) High-velocity eye injuries.~~
- 35 ~~(G) Chemical burns to the eyes.~~
- 36 ~~(H) Pulmonary fibrosis.~~
- 37 ~~(I) Chronic lung disease.~~

38 ~~(d) (1) Aggregate disability payments for a single injury~~
39 ~~occurring on or after January 1, 2008, causing temporary disability~~
40 ~~shall not extend for more than 156 compensable weeks within a~~

1 ~~period of five years from the date of injury, unless extended~~
2 ~~pursuant to paragraph (2) or (3):~~
3 ~~(2) Notwithstanding paragraph (1), for an employee who suffers~~
4 ~~from the following injuries or conditions, aggregate disability~~
5 ~~payments for a single injury occurring on or after January 1, 2008,~~
6 ~~causing temporary disability shall, except as provided in paragraph~~
7 ~~(3), not extend for more than 240 compensable weeks within a~~
8 ~~period of five years from the date of the injury:~~
9 ~~(A) Acute and chronic hepatitis B.~~
10 ~~(B) Acute and chronic hepatitis C.~~
11 ~~(C) Amputations.~~
12 ~~(D) Severe burns.~~
13 ~~(E) Human immunodeficiency virus (HIV).~~
14 ~~(F) High-velocity eye injuries.~~
15 ~~(G) Chemical burns to the eyes.~~
16 ~~(H) Pulmonary fibrosis.~~
17 ~~(I) Chronic lung disease.~~
18 ~~(3) For purposes of this subdivision, the aggregate number of~~
19 ~~weeks of payment shall be extended by the time when any of the~~
20 ~~following occur:~~
21 ~~(A) Temporary disability benefits are payable for any period~~
22 ~~after the filing of a claim form and after notice of the disability to~~
23 ~~the employer, other than the three-day waiting period, which~~
24 ~~accrued more than 14 days prior to the date of payment.~~
25 ~~(B) Temporary disability benefits are payable for any period~~
26 ~~while the provision of medical treatment to the employee is delayed~~
27 ~~by an employer's objection made or purporting to be made pursuant~~
28 ~~to Section 4062 and the dispute is ultimately decided in favor of~~
29 ~~providing the disputed treatment.~~
30 ~~(C) Temporary disability benefits are payable for any period~~
31 ~~while the provision of medical treatment to the employee is delayed~~
32 ~~by the employer's conduct of utilization review pursuant to Section~~
33 ~~4610 if the employer fails to communicate the utilization review~~
34 ~~determination within the time requirements of Section 4610.~~
35 ~~(D) Temporary disability benefits are payable for any period~~
36 ~~while the provision of medical treatment to the employee is delayed~~
37 ~~by a utilization review determination if the determination is timely~~
38 ~~disputed by the employee and ultimately decided in favor of~~
39 ~~providing the disputed medical treatment, unless the employer~~
40 ~~demonstrates that the ultimate decision is based on information~~

1 ~~that could not reasonably have been obtained by the employer~~
2 ~~within the time allowed for a utilization review determination~~
3 ~~under Section 4610.~~

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

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