



AMENDMENT SUMMARY

Workers' Compensation HF 518

Status of Bill: House Floor
Committee: Commerce (passed Committee 14-9)
Lead Democrats: Rep. Ourth
Floor Manager: Rep. Carlson
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Summary

H-1170 by Oldson of Polk (D); Study Committee. Strikes the bill and replaces it requiring the Workers' Compensation Commission to form a study committee made up of at least representatives from labor, management, insurers, agriculture, claimant's attorneys, and defense attorneys, and health care providers to study health care costs and Iowa workers' compensation rates, premiums, claims, and the workers' compensation system. The members will be appointed by the Workers' Compensation Commissioner. A report is due to the Legislature and Governor by January 15, 2018.

H-1176 by Carlson of Muscatine (R). Regarding an injury related to intoxication, the amendment amends current code language so that no compensation will be awarded if intoxication, not related to the work, was now the **predominant** factor, rather than the **substantial** factor in causing the injury. This change somewhat lessens the intoxication presumptions that flow from a positive test.

In addition, relating to earning capacity and the amount an injured employee can be compensated, the amendment amends new proposed code language in the bill by changing the term **function disability** to **functional impairment**. This change tightens up the language that shifts the permanency analysis from an industrial disability analysis to a functional analysis after a return to work. Further, this change removes some of the flexibility that employees might have otherwise had for arguing for permanency beyond the functional rating.

H-1211 to H-1176 by Carlson of Muscatine (R). The amendment to the amendment makes the following changes:

- Strikes the first action of amendment H-1176 relating to changing causation from "predominant factor" to "substantial factor". This goes back to current law. This change was also made in the new language in the bill regarding intoxication presumption.
- Strikes the shoulder language and now states for the loss of a shoulder, weekly compensation will be for 400 weeks. This still makes it a scheduled injury, rather than a whole body injury.
- Strikes language regarding cutting of compensation benefits for injured workers at age 67 and older.
- New language is added so that if an employee who is eligible for compensation due to a permanent partial disability returns to work with the same employer and is compensated based only upon the employee's functional impairment resulting from the injury, and if the employee is terminated from employment by that employer, then the award or agreement for settlement for benefits must be reviewed at the beginning of reopening proceedings by the employee for a determination of any reduction in the employee's earning capacity caused by the employee's permanent partial disability.
- Section 17 is stricken from the bill relating to changing the definition of **personal injury arising out of and in the course of employment**.

- Creates a new vocational rehabilitation program for those who have permanent partial disability shoulder injuries. The injured employees whom cannot return to work will have an evaluation by the Department of Workforce Development to determine if the injured employee is eligible for a vocational rehabilitation program through the closest community college, or another if agreed upon, in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing. The purpose of the training is to gain an associate's degree or a certificate so that the employee can return to the workforce. If the person is deemed eligible, then the employer or the employer's insurer is required to pay for the educational expenses up to \$15,000 and the employer or the employers' insurer can ask for a status report each semester. If the employee fails to pass the courses or does not attend the courses, then they are no longer eligible for participating in the program. If the employee does not enroll within six months of approval, then the employee is no longer eligible.
- Annually, beginning December of 2018, the Department of Workforce Development, the Department of Education, the Iowa Insurance Division, and the Community Colleges participating in the new program must submit a report to the Iowa Legislature, which provides information about the status of the program, including but not limited to, the utilization of and participants in the program, program completion rates, employment rates after completion of the program, the types of employment obtained by the program participants, and the effects of the program on workers' compensation premium rates.
- The amendment changes the time of the interest rate calculation for decrees and judgements, to be at the date of the injury, plus 2%, rather than prior to the date of each compensation payment is due, plus 2%.
- Strikes Section 23 regarding the effective date. This would make all changes effective July 1, 2017, rather than the date of enactment.

H-1184 to H-1176 by Carlson of Muscatine (R). The amendment to the amendment makes the following changes:

- Strikes the shoulder language and now states for the loss of a shoulder, weekly compensation will be for 400 weeks.
- Creates a new vocational rehabilitation program for those who have permanent partial disability shoulder injuries. The injured employees whom cannot return to work will have an evaluation by the Department of Workforce Development to determine if the injured employee is eligible for a vocational rehabilitation program through the closest community college, or another if agreed upon, in the areas of agriculture, family and consumer sciences, health occupations, business, industrial technology, and marketing. The purpose of the training is to gain an associate's degree or a certificate so that the employee can return to the workforce. If the person is deemed eligible, then the employer or the employer's insurer is required to pay for the educational expenses up to \$15,000 and the employer or the employers' insurer can ask for a status report each semester. If the employee fails to pass the courses or does not attend the courses, then they are no longer eligible for participating in the program. If the employee does not enroll within six months of approval, then the employee is no longer eligible.
- Annually, beginning December of 2018, the Department of Workforce Development, the Department of Education, the Iowa Insurance Division, and the Community Colleges participating in the new program must submit a report to the Iowa Legislature, which provides information about the status of the program, including but not limited to, the utilization of and participants in the program, program completion rates, employment rates after completion of the program, the types of employment obtained by the program participants, and the effects of the program on workers' compensation premium rates.
- Strikes language regarding cutting of compensation benefits for injured workers at age 67 and older.
- New language is added so that if an employee who is eligible for compensation due to a permanent partial disability returns to work with the same employer and is compensated based only upon the employee's functional impairment resulting from the injury, and if the employee is terminated from employment by that employer, then the award or agreement for settlement for benefits must be reviewed at the beginning of reopening proceedings by the employee for a determination of any reduction in the employee's earning capacity caused by the employee's permanent partial disability.

- For an injured employee with a permanent total disability, weekly compensation will be paid until the worker is no longer permanently and totally disabled, instead of during the employee's disability.
- Strikes and replaces language relating to interest on judgements and decrees in Section 22 of the bill. The new language states that the interest payment is due at an annual rate equal to the prime rate, plus 2%, as calculated annually on January 1st.
- Strikes Section 23 regarding the effective date. This would make all changes effective July 1, 2017, rather than the date of enactment.

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