

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

.
.
.

Representative Goodlette offered the following:

Amendment to Unengrossed Amendment to SB 50A

Remove line(s) 3120-3194, and insert (supercedes unengrossed amendments 17 and 18):

employee during the continuance of such total disability. No compensation shall be payable under this section if the employee is engaged in, or is physically capable of engaging in, at least sedentary employment.

(b) In the following cases, an injured employee is presumed to be permanently and totally disabled unless the employer or carrier establishes that the employee is physically capable of engaging in at least sedentary employment within a 50-mile radius of the employee's residence:

- 1. Spinal cord injury involving severe paralysis of an arm, a leg, or the trunk;

Amendment No. (for drafter's use only)

- 28 2. Amputation of an arm, a hand, a foot, or a leg
29 involving the effective loss of use of that appendage;
30 3. Severe brain or closed-head injury as evidenced by:
31 a. Severe sensory or motor disturbances;
32 b. Severe communication disturbances;
33 c. Severe complex integrated disturbances of cerebral
34 function;
35 d. Severe episodic neurological disorders; or
36 e. Other severe brain and closed-head injury conditions at
37 least as severe in nature as any condition provided in sub-
38 subparagraphs a.-d.;
39 4. Second-degree or third-degree burns of 25 percent or
40 more of the total body surface or third-degree burns of 5
41 percent or more to the face and hands; or
42 5. Total or industrial blindness.

43
44 In all other cases, in order to obtain permanent total
45 disability benefits, the employee must establish that he or she
46 is not able to engage in at least sedentary employment, within a
47 50-mile radius of the employee's residence, due to his or her
48 physical limitation. Entitlement to such benefits shall cease
49 when the employee reaches age 75, unless the employee is not
50 eligible for social security benefits under 42 U.S.C. s. 402 or
51 s. 423 because the employee's compensable injury has prevented
52 the employee from working sufficient quarters to be eligible for
53 such benefits, notwithstanding any age limits. If the accident
54 occurred on or after the employee reaches age 70, benefits shall
55 be payable during the continuance of permanent total disability,
56 not to exceed 5 years following the determination of permanent

233747

Amendment No. (for drafter's use only)

57 ~~total disability. Only a catastrophic injury as defined in s.~~
58 ~~440.02 shall, in the absence of conclusive proof of a~~
59 ~~substantial earning capacity, constitute permanent total~~
60 ~~disability.~~ Only claimants with catastrophic injuries or
61 claimants who are incapable of engaging in employment, as
62 described in this paragraph, are eligible for permanent total
63 benefits. In no other case may permanent total disability be
64 awarded.

65 (c) In cases of permanent total disability resulting from
66 injuries that occurred prior to July 1, 1955, such payments
67 shall not be made in excess of 700 weeks.

68 (d) If an employee who is being paid compensation for
69 permanent total disability becomes rehabilitated to the extent
70 that she or he establishes an earning capacity, the employee
71 shall be paid, instead of the compensation provided in paragraph
72 (a), benefits pursuant to subsection (3). The department shall
73 adopt rules to enable a permanently and totally disabled
74 employee who may have reestablished an earning capacity to
75 undertake a trial period of reemployment without prejudicing her
76 or his return to permanent total status in the case that such
77 employee is unable to sustain an earning capacity.

78 (e)1. The employer's or carrier's right to conduct
79 vocational evaluations or testing by the employer's or carrier's
80 chosen rehabilitation advisor or provider pursuant to s. 440.491
81 continues even after the employee has been accepted or
82 adjudicated as entitled to compensation under this chapter and
83 costs for such evaluations and testing shall be borne by the
84 employer or carrier, respectively. This right includes, but is
85 not limited to, instances in which such evaluations or tests are

233747

Amendment No. (for drafter's use only)

86 recommended by a treating physician or independent medical-
87 examination physician, instances warranted by a change in the
88 employee's medical condition, or instances in which the employee
89 appears to be making appropriate progress in recuperation. This
90 right may not be exercised more than once every calendar year.

91 2. The carrier must confirm the scheduling of the
92 vocational evaluation or testing in writing, and must notify the
93 employee and the employee's counsel, if any, at least 7 days
94 before the date on which vocational evaluation or testing is
95 scheduled to occur.

96 3. ~~Pursuant to an order of the judge of compensation~~
97 ~~claims~~, The employer or carrier may withhold payment of benefits
98 for permanent total disability or supplements for any period
99 during which the employee willfully fails or refuses to appear
100 without good cause for the scheduled vocational evaluation or
101 testing.

102 (f)1. If permanent total disability results from injuries
103 that occurred subsequent to June 30, 1955, and for which the
104 liability of the employer for compensation has not been
105 discharged under s. 440.20(11), the injured employee shall
106 receive additional weekly compensation benefits equal to 3 5
107 percent of her or his weekly compensation rate, as established
108 pursuant to the law in effect on the date of her or his injury,
109 multiplied by the number of calendar years since the date of
110 injury. The weekly compensation payable and the additional
111 benefits payable under this paragraph, when combined, may not
112 exceed the maximum weekly compensation rate in effect at the
113 time of payment as determined pursuant to s. 440.12(2).

114 ~~Entitlement to~~ These supplemental payments shall not be paid or

233747

Amendment No. (for drafter's use only)

115 payable after the employee attains ~~cease at~~ age 62, regardless
116 of whether ~~if~~ the employee has applied for or is eligible to
117 apply ~~is eligible~~ for social security benefits under 42 U.S.C.
118 s. ~~ss.~~ 402 or s. ~~and~~ 423, unless the employee is not eligible
119 for social security benefits under 42 U.S.C. s. 402 or s. 423
120 because the employee's compensable injury has prevented the
121 employee from working sufficient quarters to be eligible for
122 such benefits ~~whether or not the employee has applied for~~