

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
91st General Assembly  
Regular Session, 2017

As Engrossed: S3/23/17

# A Bill

SENATE BILL 682

By: Senators D. Sanders, Rapert

By: Representative Payton

## For An Act To Be Entitled

*AN ACT TO AMEND THE LAW REGARDING DEATH AND PERMANENT  
TOTAL DISABILITY CLAIMS UNDER THE WORKERS'  
COMPENSATION LAW THAT RESULTED FROM INITIATED ACT NO.  
4 OF 1948.*

## Subtitle

*TO AMEND THE LAW REGARDING DEATH AND  
PERMANENT TOTAL DISABILITY CLAIMS UNDER  
THE WORKERS' COMPENSATION LAW THAT  
RESULTED FROM INITIATED ACT NO. 4 OF  
1948.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 11-9-501(b), concerning limitations on workers' compensation for death and disability, is amended to add an additional subdivision to read as follows:*

*(6)(A)(i) For injuries occurring on or after July 1, 2017, in cases of total disability adjudged to be permanent, sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage, subject to the maximum limitations as to weekly benefits under this chapter, shall be paid to the employee not to exceed four hundred fifty (450) weeks.*

*(ii) However, the four hundred fifty (450) week limitation under subdivision (b)(6)(A)(i) of this section does not apply to an employee who has sustained a catastrophic physical injury.*

*(B) As used in this subdivision (b)(6) "catastrophic*



physical injury" means without limitation:

(i) Spinal cord injury involving severe paralysis of an arm, leg, or the trunk;

(ii) In the absence of clear and convincing proof to the contrary, the loss of both hands, both arms, both legs, both eyes, or any two (2) thereof;

(iii) Severe brain or closed head injury that is established by objective medical findings and is evidenced by:

(a) Severe sensory or motor disturbances;

(b) Severe communication disturbances;

(c) Severe complex integrated disturbances of cerebral function;

(d) Severe disturbances of consciousness;

(e) Severe episodic neurological disorders; or

(f) Other conditions at least as severe in nature as any condition provided in subdivision (b)(6)(B)(iii)(a) - (e) of this section; or

(D) Second or third degree burns over twenty-five percent (25%) of the body as a whole or third degree burns to five percent (5%) or more of the face or hands; or

(E) Total blindness.

SECTION 2. Arkansas Code § 11-9-501(e), concerning limitations on workers' compensation for death and disability, is amended to read as follows:

(e)(1) Compensation payable to the dependents of a deceased employee, except dependents identified in § 11-9-527(d)(2), shall be in addition to the funeral allowance and those benefits which were paid or to which the injured employee was entitled in his or her lifetime under §§ 11-9-508 – 11-9-517 and §§ 11-9-519 – 11-9-526.

(2) Compensation under subdivision (e)(i) of this section shall not exceed four hundred fifty (450) weeks.

*SECTION 3. Arkansas Code § 11-9-502(a) and (b), concerning exceptions to limitations on worker's compensation, are amended to read as follows:*

*(a)(1) The benefits shall be paid for a period not to exceed four hundred fifty (450) weeks of disability, except that this limitation shall not apply in cases of ~~permanent total disability or death~~ catastrophic physical injuries as defined in § 11-9-501(b)(6) or compensation to dependents of a deceased employee under § 11-9-527(d)(2).*

*(2)(A) Benefits payable under this act for a catastrophic physical injury as defined in § 11-9-501(b)(6) shall be paid until the condition of the employee improves and he or she is no longer totally incapacitated from earning meaningful wages in the same or other employment.*

*(B) The employer has the burden of proving that the condition of the employee has improved and he or she is no longer totally incapacitated from earning meaningful wages in the same or other employment.*

*(b)(1)(A) For injuries occurring on or after March 1, 1981, but on or before December 31, 2007, and a claim for death or permanent total disability benefits filed on or before June 30, 2019, the first seventy-five thousand dollars (\$75,000) of weekly benefits for death or permanent total disability shall be paid by the employer or its insurance carrier in the manner provided in this chapter.*

*(B) For injuries occurring on or after January 1, 2008, and a claim for death or permanent total disability benefits filed on or before June 30, 2019, the employer or its insurance carrier shall pay weekly benefits for death or permanent total disability not to exceed three hundred twenty-five (325) times the maximum total disability rate established for the date of the injury under this chapter.*

*(2)(A) An employee or a dependent of an employee who has filed a claim for death or permanent total disability benefits on or before June 30, 2019, and who receives a total of seventy-five thousand dollars (\$75,000) in weekly benefits for injuries sustained on or before December 31, 2007, shall be eligible to continue to draw benefits at the rates prescribed in this chapter, but all benefits in excess of seventy-five thousand dollars (\$75,000) shall be payable from the Death and Permanent Total Disability Trust Fund.*

*(B) An employee or a dependent of an employee who has filed a claim for death or permanent total disability benefits on or before*

June 30, 2019, and who receives the maximum amount specified in subdivision (b)(1)(B) of this section shall be eligible to continue to draw benefits at the rates prescribed by this chapter payable from the trust fund.

(3) Except as provided in § 11-9-501(b)(6), § 11-9-501(e), and § subsection (a) of this section, for injuries occurring on or after July 1, 2017, weekly benefits for permanent total disability or death shall not exceed four hundred fifty (450) weeks.

~~(3)~~(4) The trust fund shall consist of such funds as may be prescribed by law and shall be administered, invested, and disbursed by the Workers' Compensation Commission.

~~(4)~~(5) Each employer or the insurance carrier of the employer in each case of death of an employee where there are no dependents shall pay into the trust fund the sum of five hundred dollars (\$500).

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the limitations on worker's compensation benefits created in this act are essential to the economic sustainability of the workers' compensation system in this state; that the immediate effectiveness of this act is essential to the operations of the Workers' Compensation Commission, and that a delay in the effective date of this act could work irreparable harm upon the workers' compensation system in this state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/D. Sanders