

HOUSE BILL NO. 280

INTRODUCED BY THOMAS, DRISCOLL, SVRCEK, THAYER, BENEDICT,
WANZENRIED, LYNCH, SQUIRES
BY REQUEST OF THE GOVERNOR

IN THE HOUSE

JANUARY 19, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

JANUARY 21, 1991 FIRST READING.

FEBRUARY 1, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 2, 1991 PRINTING REPORT.

FEBRUARY 4, 1991 SECOND READING, DO PASS.

FEBRUARY 5, 1991 ENGROSSING REPORT.

FEBRUARY 6, 1991 THIRD READING, PASSED.
AYES, 97; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 7, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON LABOR & EMPLOYMENT RELATIONS.

FIRST READING.

FEBRUARY 15, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

FEBRUARY 16, 1991 SECOND READING, CONCURRED IN.

FEBRUARY 18, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 19, 1991 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *280*
 2 INTRODUCED BY *Thomas Daniel Spink*
 3 *Benefit* BY REQUEST OF THE GOVERNOR *Spink*
 4 *WAM 2/20/01*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DENY TEMPORARY TOTAL
 6 DISABILITY BENEFITS TO A WORKER WHO IS RELEASED BY A
 7 TREATING PHYSICIAN TO RETURN TO THE SAME, A MODIFIED, OR AN
 8 ALTERNATIVE POSITION WITH THE SAME EMPLOYER AT AN EQUIVALENT
 9 OR HIGHER WAGE EVEN IF THE WORKER HAS NOT REACHED MAXIMUM
 10 HEALING; TO PROVIDE FOR REQUALIFICATION FOR BENEFITS;
 11 AMENDING SECTION 39-71-701, MCA; AND PROVIDING AN EFFECTIVE
 12 DATE AND AN APPLICABILITY DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 39-71-701, MCA, is amended to read:

16 "39-71-701. Compensation for temporary total disability
 17 -- exception. (1) Subject to the limitation in 39-71-736 and
 18 subsection (4) of this section, a worker is eligible for
 19 temporary total disability benefits when the worker suffers
 20 a total loss of wages as a result of an injury and until the
 21 worker reaches maximum healing.

22 (2) The determination of temporary total disability
 23 must be supported by a preponderance of medical evidence.

24 (3) Weekly compensation benefits for injury producing
 25 temporary total disability shall be 66 2/3% of the wages

1 received at the time of the injury. The maximum weekly
 2 compensation benefits may not exceed the state's average
 3 weekly wage at the time of injury. Temporary total
 4 disability benefits must be paid for the duration of the
 5 worker's temporary disability. The weekly benefit amount may
 6 not be adjusted for cost of living as provided in
 7 39-71-702(5).

8 (4) If the treating physician releases a worker to
 9 return to the same, a modified, or an alternative position
 10 with the same employer at an equivalent or higher wage than
 11 he received at the time of injury, the worker is no longer
 12 eligible for temporary total disability benefits even though
 13 he has not reached maximum healing. A worker requalifies for
 14 temporary total disability benefits if the position is no
 15 longer available to the worker and the worker continues to
 16 be temporarily totally disabled, as defined in 39-71-116.

17 ~~(4)~~(5) In cases where it is determined that periodic
 18 disability benefits granted by the Social Security Act are
 19 payable because of the injury, the weekly benefits payable
 20 under this section are reduced, but not below zero, by an
 21 amount equal, as nearly as practical, to one-half the
 22 federal periodic benefits for such week, which amount is to
 23 be calculated from the date of the disability social
 24 security entitlement.

25 ~~(5)~~(6) Notwithstanding subsection (3), beginning July



-2- INTRODUCED BILL
 HB 280

LC 0761/01

1 1, 1987, through June 30, 1991, weekly compensation benefits
2 for temporary total disability may not exceed the state's
3 average weekly wage of \$299 established July 1, 1986."

4 NEW SECTION. Section 2. Applicability. [This act]
5 applies to claims for injuries that occur after [the
6 effective date of this act].

7 NEW SECTION. Section 3. Effective date. [This act] is
8 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0280, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to deny temporary total disability benefits to a worker who is released by a treating physician to return to the same, a modified, or an alternative position with the same employer at an equivalent or higher wage even if the worker has not reached maximum healing; to provide for requalification for benefits; amending sections 39-71-701, MCA; and providing a delayed effective date and an applicability date.

ASSUMPTIONS:


1. The number of injured employees eligible or capable of returning to work prior to maximum healing can not be determined at this time with any degree of accuracy.

FISCAL IMPACT:


Undetermined

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Releasing employees back to work prior to maximum healing could get people back to work sooner and reduce worker's compensation payments.



ROD SUNDSTED, BUDGET DIRECTOR 1-25-91
Office of Budget and Program Planning DATE



FRED THOMAS, PRIMARY SPONSOR 1-28-91
DATE
Fiscal Note for HB0280, as introduced **HB 280**

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

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disability benefits granted by the Social Security Act are
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under this section are reduced, but not below zero, by an
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federal periodic benefits for such week, which amount is to

SECOND READING

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 23 under this section are reduced, but not below zero, by an
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 25 federal periodic benefits for such week, which amount is to

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REFERENCE BILL

HB 280



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