

SENATE BILL 349

Introduced by Harp

2/11	Introduced
2/12	Referred to Judiciary
2/12	First Reading
2/20	Hearing
2/20	Committee Report--Bill Passed
2/23	2nd Reading Passed as Amended
2/25	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to Labor & Employment Relations
3/15	Hearing
	Died in Committee

1 Senate BILL NO. 349  
2 INTRODUCED BY HARP

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING ATTORNEY  
5 FEES IN WORKERS' COMPENSATION MATTERS; PROVIDING FOR  
6 REGULATION OF ATTORNEY FEES BY THE DEPARTMENT OF LABOR AND  
7 INDUSTRY; PROVIDING FOR A MAXIMUM FEE; AMENDING SECTION  
8 39-71-613, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
9 AND AN APPLICABILITY DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 39-71-613, MCA, is amended to read:

13 "39-71-613. Regulation of attorneys' fees -- forfeiture  
14 of fee for noncompliance. (1) When an attorney represents or  
15 acts on behalf of a claimant, an employer, or any other  
16 party on any workers' compensation claim, the attorney  
17 shall, within 30 days of undertaking representation of the  
18 party, submit to the department a contract of employment, on  
19 a form provided by the department, stating specifically the  
20 terms of the fee arrangement between the attorney and the  
21 claimant party. An attorney replacing another attorney  
22 previously representing a party shall submit a new contract  
23 conforming with this section within 30 days of undertaking  
24 representation of the party. The contract of employment must  
25 be signed by the party and the attorney and be approved by

1 the department to be effective.

2 (2) The department may regulate the amount of the  
3 attorney's fee in any workers' compensation case matter. In  
4 regulating the amount of the fee, the department shall  
5 consider:

6 (a) if the attorney represents the claimant, the  
7 benefits the claimant gained due to the efforts of the  
8 attorney;

9 (b) the anticipated time and labor the--attorney--was  
10 required to spend-on-the-case perform the legal service;

11 (c) the novelty and complexity of the case legal issues  
12 involved in the matter; and

13 (d) the fees customarily charged for similar legal  
14 services;

15 (e) the time limitations imposed by the client or the  
16 circumstances of the case;

17 (f) the nature and length of the attorney-client  
18 relationship;

19 (g) the experience, skill, and reputation of the  
20 attorney;

21 (h) the ability of the client to pay for the legal  
22 services rendered;

23 (i) the market value of the attorney's services at the  
24 time and place involved; and

25 ~~(d)~~(j) any other relevant matter the department may

1 consider appropriate.

2 (3) Notwithstanding the provisions of subsection (2),  
3 the fee charged to the party by his attorney may not exceed  
4 \$90 an hour.

5 (4) An attorney may not attempt to alter his contract  
6 of employment with a claimant to obtain a greater fee after  
7 he has entered into the attorney-client relationship.  
8 However, an attorney may charge a fee less than the amount  
9 agreed to in the contract.

10 (5) If a dispute arises between a client and an  
11 attorney regarding attorney fees in a workers' compensation  
12 claim, upon request of either the client or his attorney or  
13 upon notice by either party to the department of a violation  
14 of this section or a rule adopted pursuant to this section,  
15 the department shall review the matter and issue an order  
16 resolving the dispute. The fee contract must clearly  
17 identify the rights granted by this section.

18 (6) If an attorney violates a provision of this  
19 section, a rule adopted under this section, or an order  
20 fixing an attorney's fee under this section, he shall  
21 forfeit the right to any fee which he may have collected or  
22 been entitled to collect."

23 NEW SECTION. Section 2. Applicability. (This act)  
24 applies to all contracts entered into on or after [the  
25 effective date of this act].

1 NEW SECTION. Section 3. Effective date. [This act] is  
2 effective on passage and approval.

-End-

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ON JUDICIARY

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SECOND READING  
SB 349

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10 (5) THIS SECTION DOES NOT RESTRICT A CLAIMANT AND AN  
11 ATTORNEY FROM ENTERING INTO A CONTINGENCY FEE AGREEMENT, AS  
12 AUTHORIZED IN 39-71-614(3), IN CASES WHERE THE INSURER  
13 DENIES A CLAIM PURSUANT TO 39-71-606 OR TERMINATES BENEFITS  
14 PURSUANT TO 39-71-609.

15 {5}(6) If a dispute arises between a client and an  
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