

HOUSE BILL NO. 251

INTRODUCED BY RAMIREZ, CAMPBELL

IN THE HOUSE

January 18, 1985	Introduced and referred to Committee on Business and Labor.
January 21, 1985	Fiscal Note requested.
January 25, 1985	Fiscal Note returned.
January 26, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
January 30, 1985	Second reading, pass consideration.
January 31, 1985	Second reading, do pass.
	Considered correctly engrossed.
February 1, 1985	Third reading, passed. Ayes, 98; Noes, 1.
	Transmitted to Senate.

IN THE SENATE

February 6, 1985	Introduced and referred to Committee on Labor and Employment Relations.
March 6, 1985	Committee recommend bill be concurred in. Report adopted.
March 7, 1985	Second reading, concurred in.

March 9, 1985

Third reading, concurred in.
Ayes, 46; Noes, 2.

Returned to House.

IN THE HOUSE

March 11, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 the-beneficiaries-could-not-have-known-that--the--claimant's
2 condition--or--the--employee's--death--was--related--to--an
3 occupational-disease,--waive-the-claim-time-requirement-up-to
4 an-additional-2-years.

5 {3}--Notwithstanding-the-provisions-of-subsections--(1)
6 and--(2)--of-this-section,--no-claim-to-recover-benefits-under
7 this-chapter-may-be-maintained-unless-the-claim-is--properly
8 filed--within--3--years--after--the--last-day-upon-which-the
9 claimant-or-the-deceased-employee-actually--worked--for--the
10 employer-against-whom-compensation-is-claimed."

11 Section 3. Section 39-72-405, MCA, is amended to read:
12 "39-72-405. General limitations on payment of
13 compensation to disabled employee---exceptions. (1)--Except
14 as--provided--for--in--this--section,--compensation Compensation
15 may not be paid when the last day of the injurious exposure
16 of the employee to the hazard of the occupational disease
17 has occurred prior to July 1, 1959.

18 {2}--Except-as-provided-for-in-subsection-(3)--of--this
19 section,--no--compensation--may-be-paid-for-silicosis-unless
20 during-the-8-years-immediately-preceding-the-disablement-the
21 injured-employee-has-been-exposed-to-harmful--quantities--of
22 silicon-dioxide-dust--for--a-total-period-of-not-less-than
23 1,000-workshifts-in-employment--in--this--state--and--unless
24 total--disability--results--within-3-years-from-the-last-day
25 upon-which-the-employee-actually--worked--for--the--employer

1 against-whom-compensation-is-claimed,

2 {3}--A--silicotic--employee--who--is--discharged-by-his
3 employer-to-escape-liability-for--silicosis--benefits--under
4 this--chapter-is-eligible-to-receive-compensation-under-this
5 chapter--when--totally--disabled--if--he--has--700--actual
6 workshifts--since--January--17--1954,--for-that-employer. When
7 any-employee-in-employment-on--or--after--January--17--1959,
8 because--he--has--an--occupational--disease--incurred-in-and
9 caused-by-such-employment-which-is--not--yet--disabling,--is
10 discharged-or-transferred-from-the-employment-in-which-he-is
11 engaged--or-when-he-ceases-his-employment-and-it-is-in-fact,
12 as-determined-by-the-medical-panel--inadvisable-for--him--on
13 account--of--a-nondisabling-occupational-disease-to-continue
14 in-employment-and-he-suffers-wage--loss--by--reason--of--the
15 discharge,--transfer,--or--cessation,--the-division-may-allow
16 compensation-on-account-thereof-as-it--considers--just,--not
17 exceeding--\$10,000."

18 Section 4. Section 39-72-711, MCA, is amended to read:

19 "39-72-711. Lump-sum and compromise settlements. (1)
20 No final and binding award made upon any claim pursuant to
21 this chapter may be converted into a lump-sum payment, in
22 whole or in part, except as provided in this section or
23 39-72-712.

24 (2) Whenever there are contested issues as to an
25 insurer's liability for a claim under this chapter,

1 ~~including--a--claim-based-on-39-72-405(3)~~, a claimant and an
 2 insurer may enter into a full and final compromise
 3 settlement of the claim. However, no such settlements are
 4 binding on the parties until approved by the division. After
 5 the division approves a full and final compromise
 6 settlement, the claim is closed and the insurer's liability
 7 for a settled claim is forever released."

8 Section 5. Section 39-73-104, MCA, is amended to read:

9 "39-73-104. Eligibility requirements for benefits.
 10 Payment shall be made under this chapter to any person who:
 11 (1) has silicosis, as defined in 39-73-101, which
 12 results in his total disability so as to render it
 13 impossible for him to follow continuously any substantially
 14 gainful occupation;

15 ~~(2)--has-resided-in-and-been-an-inhabitant-of-the-state~~
 16 ~~of--Montana--for--10-years-or-more-immediately-preceding-the~~
 17 ~~date-of-the-application;~~

18 ~~(3)~~(2) is not receiving, with respect to any month for
 19 which he would receive a payment under this chapter,
 20 compensation under The Occupational Disease Act of Montana,
 21 as provided by chapter 72 of this title, which will equal
 22 the sum of \$200."

23 NEW SECTION. Section 6. Repealer. Sections 39-72-406
 24 and 39-72-407, MCA, are repealed.

25 NEW SECTION. Section 7. Applicability. This act

1 applies to claims arising from exposures occurring on or
 2 after the effective date of this act.

-End-

STATE OF MONTANA
FISCAL NOTE

REQUEST NO. FNN 155-85

Form BD-15

In compliance with a written request received January 21 19 85, there is hereby submitted a Fiscal Note for H.B. 251 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 251 revises laws relating to claims arising from occupational disease.

ASSUMPTIONS:

This legislation affects all occupational disease cases, including silicosis:

SILICOSIS

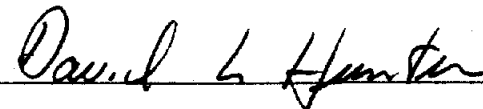
- a. Current Silicosis Program continues for those exposed prior to proposed legislation.
- b. Very few, if any, new silicosis claims will be received since there is currently no underground mining in Montana and it is unlikely there will be any in the future.

ALL OCCUPATIONAL DISEASE CASES

- a. Proposed legislation impacts claims arising from exposures occurring on or after the effective date of this act.
- b. Future premium rates in high occupational disease exposure industries will likely be affected due to unlimited time period between last employment and identification of disease.

FISCAL IMPACT:

While there may be a fiscal impact in a future biennium, it is impossible to estimate. However, any additional silicosis benefits would increase general fund expenditures, and any additional occupational disease payments would increase expenditures from state special revenues.



BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 25, 1985
HB 251

APPROVED BY COMM. ON
BUSINESS AND LABOR

HOUSE BILL NO. 251

INTRODUCED BY RAMIREZ, CAMPBELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO CLAIMS ARISING FROM OCCUPATIONAL DISEASE; PROVIDING THAT THE STATUTE OF LIMITATIONS FOR TOTAL DISABILITY CLAIMS ARISING FROM AN OCCUPATIONAL DISEASE WILL RUN FROM THE TIME OF DISCOVERY THAT THE DISABILITY CONDITION RESULTED FROM AN OCCUPATIONAL DISEASE; REMOVING RESTRICTIONS ON FILING OF CLAIMS FOR SILICOSIS BENEFITS; AMENDING SECTIONS 39-72-303, 39-72-403, 39-72-405, AND 39-72-711, AND 39-73-104, MCA; REPEALING SECTIONS 39-72-406 AND 39-72-407, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 39-72-303, MCA, is amended to read:

"39-72-303. Which employer liable. (1) Where compensation is payable for an occupational disease, the only employer liable shall be the employer in whose employment the employee was last injuriously exposed to the hazard of such disease, ~~but in the case of silicosis, the only employer liable shall be the employer in whose employment the employee was last exposed to harmful quantities of silicon dioxide (SiO₂) dust for a period of 90 actual workshifts or more after July 17, 1958.~~

(2) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or substantially all of the assets thereof from a person who was an operator of such mine on or after December 30, 1969, is liable for and must secure the payment of all benefits which would have been payable by that person with respect to miners previously employed in such mine if acquisition had not occurred and that person had continued to operate such mine, and the prior operator of such mine shall not be relieved of any liability under this section."

Section 2. Section 39-72-403, MCA, is amended to read:

"39-72-403. Time when claims must be presented. ~~(1)~~ When a claimant seeks benefits under this chapter, his claims for benefits must be presented in writing to the employer, the employer's insurer, or the division within ~~1~~ year 2 years from the date the claimant knew or should have known that his total disability condition resulted from an occupational disease. When a beneficiary seeks benefits under this chapter, his claims for death benefits must be presented in writing to the employer, the employer's insurer, or the division within 1 year from the date the beneficiaries knew or should have known that the decedent's death was related to an occupational disease.

~~(2) The division may, upon a reasonable showing by the claimant or a decedent's beneficiaries that the claimant or~~

1 the--beneficiaries--could-not-have-known-that-the-claimant's
 2 condition--or--the--employee's--death--was--related--to--an
 3 occupational-disease,-waive-the-claim-time-requirement-up-to
 4 an-additional-2-years.

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 6 CLAIMANT OR A DECEDENT'S BENEFICIARIES THAT THE CLAIMANT OR
 7 THE BENEFICIARIES COULD NOT HAVE KNOWN THAT THE CLAIMANT'S
 8 CONDITION OR THE EMPLOYEE'S DEATH WAS RELATED TO AN
 9 OCCUPATIONAL DISEASE, WAIVE THE CLAIM TIME REQUIREMENT UP TO
 10 AN ADDITIONAL 2 YEARS.

11 ~~{3}--Notwithstanding-the-provisions-of-subsections--(1)
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 13 this-chapter-may-be-maintained-unless-the-claim-is--properly
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 16 employer-against-whom-compensation-is-claimed--"~~

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24 (2) WHEN ANY EMPLOYEE IN EMPLOYMENT ON OR AFTER
 25 JANUARY 1, 1959, BECAUSE HE HAS AN OCCUPATIONAL DISEASE

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 4 IT IS IN FACT, AS DETERMINED BY THE MEDICAL PANEL,
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16 (2) Whenever there are contested issues as to an
 17 insurer's liability for a claim under this chapter,
 18 ~~including a claim based on 39-72-405(3)~~, INCLUDING A CLAIM
 19 BASED ON 39-72-405(2), a claimant and an insurer may enter
 20 into a full and final compromise settlement of the claim.
 21 However, no such settlements are binding on the parties
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 23 a full and final compromise settlement, the claim is closed
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 4 ~~(1) has silicosis, as defined in 39-73-101, which~~
 5 ~~results in his total disability so as to render it~~
 6 ~~impossible for him to follow continuously any substantially~~
 7 ~~gainful occupation;~~
 8 ~~(2) has resided in and been an inhabitant of the state~~
 9 ~~of Montana for 10 years or more immediately preceding the~~
 10 ~~date of the application;~~
 11 ~~(3) (2) is not receiving, with respect to any month for~~
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25 ~~actual workshifts or more after July 17, 1958.~~

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2 operator who has acquired a mine in the state or
3 substantially all of the assets thereof from a person who
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5 is liable for and must secure the payment of all benefits
6 which would have been payable by that person with respect to
7 miners previously employed in such mine if acquisition had
8 not occurred and that person had continued to operate such
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16 year 2 years from the date the claimant knew or should have
17 known that his total disability condition resulted from an
18 occupational disease. When a beneficiary seeks benefits
19 under this chapter, his claims for death benefits must be
20 presented in writing to the employer, the employer's
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 8 CONDITION OR THE EMPLOYEE'S DEATH WAS RELATED TO AN
 9 OCCUPATIONAL DISEASE, WAIVE THE CLAIM TIME REQUIREMENT UP TO
 10 AN ADDITIONAL 2 YEARS.

11 {3}--Notwithstanding the provisions of subsections--(1)
 12 and--(2)--of this section, no claim to recover benefits under
 13 this chapter may be maintained unless the claim is properly
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 15 claimant or the deceased employee actually worked for the
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 23 occupational disease has occurred prior to July 1, 1959.

24 {2}--Except as provided for in subsection (3)--of--this
 25 section, no compensation may be paid for silicosis unless

1 during the 8 years immediately preceding the disablement the
 2 injured employee has been exposed to harmful quantities of
 3 silicon dioxide dust for a total period of not less than
 4 17000 workshifts in employment in this state and unless
 5 total disability results within 3 years from the last day
 6 upon which the employee actually worked for the employer
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 9 employer to escape liability for silicosis benefits under
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 12 workshifts since January 1, 1954, for that employer. When
 13 any employee in employment on or after January 1, 1959,
 14 because he has an occupational disease incurred in and
 15 caused by such employment which is not yet disabling, is
 16 discharged or transferred from the employment in which he is
 17 engaged or when he ceases his employment and it is in fact,
 18 as determined by the medical panel, inadvisable for him on
 19 account of a nondisabling occupational disease to continue
 20 in employment and he suffers wage loss by reason of the
 21 discharge, transfer, or cessation, the division may allow
 22 compensation on account thereof as it considers just, not
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17 Section 3. Section 39-72-405, MCA, is amended to read:

18 "39-72-405. General limitations on payment of
 19 compensation to disabled employee---exceptions. {1}--Except
 20 as---provided---for---in---this---section,---compensation (1)
 21 Compensation may not be paid when the last day of the
 22 injurious exposure of the employee to the hazard of the
 23 occupational disease has occurred prior to July 1, 1959.

24 ~~{2}--Except as provided for in subsection {3} of this~~
 25 ~~section, no compensation may be paid for silicosis unless~~

1 during the 8 years immediately preceding the disablement the
 2 injured employee has been exposed to harmful quantities of
 3 silicon dioxide dust for a total period of not less than
 4 1,000 workshifts in employment in this state and unless
 5 total disability results within 3 years from the last day
 6 upon which the employee actually worked for the employer
 7 against whom compensation is claimed.

8 ~~{3}--A silicotic employee who is discharged by his~~
 9 ~~employer to escape liability for silicosis benefits under~~
 10 ~~this chapter is eligible to receive compensation under this~~
 11 ~~chapter when totally disabled if he has 700 actual~~
 12 ~~workshifts since January 1, 1957, for that employer. When~~
 13 ~~any employee in employment on or after January 1, 1959,~~
 14 ~~because he has an occupational disease incurred in and~~
 15 ~~caused by such employment which is not yet disabling, is~~
 16 ~~discharged or transferred from the employment in which he is~~
 17 ~~engaged or when he ceases his employment and it is in fact,~~
 18 ~~as determined by the medical panel, inadvisable for him on~~
 19 ~~account of a nondisabling occupational disease to continue~~
 20 ~~in employment and he suffers wage loss by reason of the~~
 21 ~~discharge, transfer, or cessation, the division may allow~~
 22 ~~compensation on account thereof as it considers just, not~~
 23 ~~exceeding \$10,000.~~

24 (2) WHEN ANY EMPLOYEE IN EMPLOYMENT ON OR AFTER
 25 JANUARY 1, 1959, BECAUSE HE HAS AN OCCUPATIONAL DISEASE

1 INCURRED IN AND CAUSED BY SUCH EMPLOYMENT WHICH IS NOT YET
 2 DISABLING, IS DISCHARGED OR TRANSFERRED FROM THE EMPLOYMENT
 3 IN WHICH HE IS ENGAGED OR WHEN HE CEASES HIS EMPLOYMENT AND
 4 IT IS IN FACT, AS DETERMINED BY THE MEDICAL PANEL,
 5 INADVISABLE FOR HIM ON ACCOUNT OF A NONDISABLING
 6 OCCUPATIONAL DISEASE TO CONTINUE IN EMPLOYMENT AND HE
 7 SUFFERS WAGE LOSS BY REASON OF THE DISCHARGE, TRANSFER, OR
 8 CESSATION, THE DIVISION MAY ALLOW COMPENSATION ON ACCOUNT
 9 THEREOF AS IT CONSIDERS JUST, NOT EXCEEDING \$10,000."

10 Section 4. Section 39-72-711, MCA, is amended to read:
 11 "39-72-711. Lump-sum and compromise settlements. (1)
 12 No final and binding award made upon any claim pursuant to
 13 this chapter may be converted into a lump-sum payment, in
 14 whole or in part, except as provided in this section or
 15 39-72-712.

16 (2) Whenever there are contested issues as to an
 17 insurer's liability for a claim under this chapter,
 18 ~~including a claim based on 39-72-405(3)~~, INCLUDING A CLAIM
 19 BASED ON 39-72-405(2), a claimant and an insurer may enter
 20 into a full and final compromise settlement of the claim.
 21 However, no such settlements are binding on the parties
 22 until approved by the division. After the division approves
 23 a full and final compromise settlement, the claim is closed
 24 and the insurer's liability for a settled claim is forever
 25 released."

1 Section 5. ~~Section 39-73-104, MCA, is amended to read:~~
 2 ~~"39-73-104. Eligibility requirements for benefits.~~
 3 ~~Payment shall be made under this chapter to any person who:~~
 4 ~~(1) has silicosis, as defined in 39-73-101, which~~
 5 ~~results in his total disability so as to render it~~
 6 ~~impossible for him to follow continuously any substantially~~
 7 ~~gainful occupation;~~
 8 ~~(2) has resided in and been an inhabitant of the state~~
 9 ~~of Montana for 10 years or more immediately preceding the~~
 10 ~~date of the application;~~
 11 ~~(3) (2) is not receiving, with respect to any month for~~
 12 ~~which he would receive a payment under this chapter,~~
 13 ~~compensation under The Occupational Disease Act of Montana,~~
 14 ~~as provided by chapter 72 of this title, which will equal~~
 15 ~~the sum of \$200;"~~

16 NEW SECTION. Section 5. Repealer. Sections 39-72-406
 17 and 39-72-407, MCA, are repealed.

18 NEW SECTION. Section 6. Applicability. This act
 19 applies to claims arising from exposures occurring on or
 20 after the effective date of this act.

-End-