

HOUSE BILL NO. 453

INTRODUCED BY BRADLEY

IN THE HOUSE

January 23, 1985	Introduced and referred to Committee on Business and Labor.
February 8, 1985	Committee recommend bill do pass as amended. Report adopted.
February 9, 1985	Bill printed and placed on members' desks.
February 11, 1985	Second reading, do pass. Considered correctly engrossed.
February 12, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 13, 1985	Introduced and referred to Committee on Labor and Employment Relations.
March 20, 1985	Committee recommend bill be concurred in. Report adopted.
March 22, 1985	Second reading, pass consideration.
March 23, 1985	Second reading, pass consideration.
March 25, 1985	Second reading, concurred in.

March 27, 1985

Third reading, concurred in.
Ayes, 48; Noes, 2.

Returned to House.

IN THE HOUSE

March 27, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 453
2 INTRODUCED BY Bradley

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO TOTAL
5 DISABILITY WORKERS' COMPENSATION BENEFITS; AMENDING SECTIONS
6 39-71-116, 39-71-737, AND 39-71-1003, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 39-71-116, MCA, is amended to read:
10 "39-71-116. Definitions. Unless the context otherwise
11 requires, words and phrases employed in this chapter have
12 the following meanings:

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14 earnings of all employees under covered employment, as
15 defined and established annually by the Montana department
16 of labor and industry. It is established at the nearest
17 whole dollar number and must be adopted by the division of
18 workers' compensation prior to July 1 of each year.

19 (2) "Beneficiary" means:

- 20 (a) a surviving wife or husband;
- 21 (b) an unmarried child under the age of 18 years;
- 22 (c) an unmarried child under the age of 25 years who
23 is a full-time student in an accredited school;
- 24 (d) an invalid child over the age of 18 years who is
25 dependent upon the decedent for support at the time of

1 injury;

2 (e) a parent who is dependent upon the decedent for
3 support at the time of the injury (however, such a parent is
4 a beneficiary only when no beneficiary, as defined in
5 subsections (2)(a) through (2)(d) of this section, exists);
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7 (f) a brother or sister under the age of 18 years if
8 dependent upon the decedent for support at the time of the
9 injury (however, such a brother or sister is a beneficiary
10 only until the age of 18 years and only when no beneficiary,
11 as defined in subsections (2)(a) through (2)(e) of this
12 section, exists).

13 (3) "Casual employment" means employment not in the
14 usual course of trade, business, profession, or occupation
15 of the employer. Any person hauling or assisting in hauling
16 of sugar beets or grains, in case of emergency, is
17 considered engaged in casual employment.

18 (4) "Child" includes a posthumous child, a dependent
19 stepchild, a child legally adopted prior to the injury, and
20 an illegitimate child legitimized prior to the injury.

21 (5) "Division" means the division of workers'
22 compensation of the department of labor and industry
23 provided for in 2-15-1702.

24 (6) "Fiscal year" means the period of time between
25 July 1 and the succeeding June 30.

1 (7) "Husband" or "widower" means only a husband or
2 widower living with or legally entitled to be supported by
3 the deceased at the time of her injury.

4 (8) "Insurer" means an employer bound by compensation
5 plan No. 1, an insurance company transacting business under
6 compensation plan No. 2, the industrial insurance account
7 under compensation plan No. 3, or the uninsured employers'
8 fund provided for in part 5 of this chapter.

9 (9) "Invalid" means one who is physically or mentally
10 incapacitated.

11 (10) "Order" means any decision, rule, direction,
12 requirement, or standard of the division or any other
13 determination arrived at or decision made by the division.

14 (11) "Payroll", "annual payroll", or "annual payroll
15 for the preceding year" means the average annual payroll of
16 the employer for the preceding calendar year or, if the
17 employer shall not have operated a sufficient or any length
18 of time during such calendar year, 12 times the average
19 monthly payroll for the current year; provided, that an
20 estimate may be made by the division for any employer
21 starting in business where no average payrolls are
22 available, such estimate to be adjusted by additional
23 payment by the employer or refund by the division, as the
24 case may actually be on December 31 of such current year.

25 (12) "Permanent partial disability" means a condition

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18 profession in this state.

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20 business of a third person while the employer has access to
21 or control over such place of business for the purpose of
22 carrying on his usual trade, business, or occupation.

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24 county, municipal corporation, school district, city, city
25 under commission form of government or special charter,

1 town, or village.

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3 place of employment has been made as free from danger to the
4 life or safety of the employee as the nature of the
5 employment will reasonably permit.

6 (18) "Reasonably safe tools and appliances" are such
7 tools and appliances as are adapted to and are reasonably
8 safe for use for the particular purpose for which they are
9 furnished.

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11 resulting from an injury as defined in this chapter that
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15 certification is made under 39-71-1002. Disability shall be
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18 by the employee at the time of the injury for the usual
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20 considered. Sick leave benefits accrued by employees of
21 public corporations, as defined by subsection (16) of this
22 section, are considered wages.

23 (21) "Wife" or "widow" means only a wife or widow
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25 deceased at the time of the injury.

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4 "39-71-737. Compensation to run consecutively --
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12 "39-71-1003. Eligibility for benefits under chapter
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20 thereto, he may be paid, upon the certification of the
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24 place of residence to the place of training and return;

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1 not in excess of \$50 per week; and

2 (3) his expenses for tuition, books, and necessary
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4 NEW SECTION. Section 4. Extension of authority. Any
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REFERENCE BILL

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20 business of a third person while the employer has access to
21 or control over such place of business for the purpose of
22 carrying on his usual trade, business, or occupation.

23 (16) "Public corporation" means the state or any
24 county, municipal corporation, school district, city, city
25 under commission form of government or special charter,

1 town, or village.

2 (17) "Reasonably safe place to work" means that the
3 place of employment has been made as free from danger to the
4 life or safety of the employee as the nature of the
5 employment will reasonably permit.

6 (18) "Reasonably safe tools and appliances" are such
7 tools and appliances as are adapted to and are reasonably
8 safe for use for the particular purpose for which they are
9 furnished.

10 (19) "Temporary total disability" means a condition
11 resulting from an injury as defined in this chapter that
12 results in total loss of wages and exists until the injured
13 worker is as far restored as the permanent character of the
14 injuries will permit ~~or until a vocational rehabilitation~~
15 ~~certification is made under 39-71-1002. A WORKER SHALL BE~~
16 ~~PAID TEMPORARY TOTAL DISABILITY BENEFITS DURING A REASONABLE~~
17 ~~PERIOD OF RETRAINING.~~ Disability shall be supported by a
18 preponderance of medical evidence.

19 (20) "Wages" means the average gross earnings received
20 by the employee at the time of the injury for the usual
21 hours of employment in a week, and overtime is not to be
22 considered. Sick leave benefits accrued by employees of
23 public corporations, as defined by subsection (16) of this
24 section, are considered wages.

25 (21) "Wife" or "widow" means only a wife or widow

1 living with or legally entitled to be supported by the
2 deceased at the time of the injury.

3 (22) "Year", unless otherwise specified, means calendar
4 year."

5 Section 2. Section 39-71-737, MCA, is amended to read:
6 "39-71-737. Compensation to run consecutively --
7 exception. Compensation shall run consecutively and not
8 concurrently, and payment shall not be made for two classes
9 of disability over the same period except that indemnity
10 benefits under 39-71-705 through 39-71-708 and TEMPORARY
11 total disability benefits ~~must~~ MAY be paid concurrently."

12 Section 3. Section 39-71-1003, MCA, is amended to
13 read:

14 "39-71-1003. Eligibility for benefits under chapter
15 not affected -- other expenses payable. The eligibility of
16 any injured worker to receive other benefits under the
17 Workers' Compensation Act is in no way affected by his
18 entrance upon a course of vocational rehabilitation as
19 herein provided, ~~but he may be paid, in~~ A person undergoing
20 vocational rehabilitation must be paid TEMPORARY total
21 disability benefits ~~until he is certified under 39-71-1002.~~
22 In addition thereto, he may be paid, upon the certification
23 of the department of social and rehabilitation services from
24 funds herein provided:

25 (1) his actual and necessary travel expenses from his

1 place of residence to the place of training and return;

2 (2) his living expenses while in training in an amount
3 not in excess of \$50 per week; and

4 (3) his expenses for tuition, books, and necessary
5 equipment in training."

6 NEW SECTION. Section 4. Extension of authority. Any
7 existing authority of the division of workers' compensation
8 to make rules on the subject of the provisions of this act
9 is extended to the provisions of this act.

-End-