

SENATE BILL NO. 320—SENATOR SHAFFER (BY REQUEST)

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing industrial insurance. (BDR 53-600)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to industrial insurance; requiring the adoption of certain medical standards for evaluating permanent impairments to injured employees; revising various provisions relating to the payment of compensation to injured employees; revising certain procedures and establishing certain requirements relating to the adjudication of contested claims; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 616C.110 is hereby amended to read as
2 follows:
3 616C.110 1. For the purposes of NRS 616B.557, ***616B.578,***
4 ***616B.587,*** 616C.490 and 617.459, the Division shall adopt
5 regulations incorporating the American Medical Association's
6 *Guides to the Evaluation of Permanent Impairment , 5th edition,* by
7 reference . ~~and~~ ***The Division*** may amend those regulations from
8 time to time as it deems necessary ~~[. In adopting]~~ , ***except that the***
9 ***amendments to those regulations:***
10 ***(a) Must be consistent with the American Medical***
11 ***Association's Guides to the Evaluation of Permanent Impairment,***
12 ~~***[the Division shall consider the edition most recently published by]***~~
13 ***5th edition;***



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1 (b) *Must not incorporate any contradictory matter from any*
2 *other edition or printing of* the American Medical ~~[Association.]~~
3 *Association's Guides to the Evaluation of Permanent Impairment;*
4 *and*

5 (c) *Must not consider any factors other than the degree of*
6 *physical impairment of the whole man in calculating the*
7 *entitlement to compensation.*

8 2. If the *American Medical Association's Guides to the*
9 *Evaluation of Permanent Impairment* ~~[adopted by the Division~~
10 ~~contain]~~, *5th edition, contains* more than one method of
11 determining the rating of an impairment, the Administrator shall
12 designate by regulation the method *from that edition* which must be
13 used to rate an impairment pursuant to NRS 616C.490.

14 **Sec. 2.** NRS 616C.175 is hereby amended to read as follows:

15 616C.175 1. The resulting condition of an employee who:

16 (a) Has a preexisting condition from a cause or origin that did
17 not arise out of or in the course of his current or past employment;
18 and

19 (b) Subsequently sustains an injury by accident arising out of
20 and in the course of his employment which aggravates, precipitates
21 or accelerates his preexisting condition,
22 shall *not* be deemed to be an injury by accident that is compensable
23 pursuant to the provisions of chapters 616A to 616D, inclusive, of
24 NRS, unless the ~~[insurer can prove]~~ *physician or chiropractor*
25 *proves* by a preponderance of the evidence that the subsequent
26 injury *described in paragraph (b)* is ~~[not a substantial contributing]~~
27 *the major* cause of the resulting condition.

28 2. The resulting condition of an employee who:

29 (a) Sustains an injury by accident arising out of and in the
30 course of his employment; and

31 (b) Subsequently aggravates, precipitates or accelerates the
32 injury in a manner that does not arise out of and in the course of his
33 employment,
34 shall *not* be deemed to be an injury by accident that is compensable
35 pursuant to the provisions of chapters 616A to 616D, inclusive, of
36 NRS, unless the ~~[insurer can prove]~~ *physician or chiropractor*
37 *proves* by a preponderance of the evidence that the injury described
38 in paragraph (a) is ~~[not a substantial contributing]~~ *the major* cause
39 of the resulting condition.

40 **Sec. 3.** NRS 616C.245 is hereby amended to read as follows:

41 616C.245 1. Every injured employee within the provisions of
42 chapters 616A to 616D, inclusive, of NRS is entitled to receive
43 promptly such accident benefits as may reasonably be required at
44 the time of the injury and within 6 months thereafter. Such benefits
45 may be further extended for additional periods as may be required.



1 2. An injured employee is entitled to receive as an accident
2 benefit a motor vehicle that is modified to allow the employee to
3 operate the vehicle safely if:

4 (a) As a result of an injury arising out of and in the course of his
5 employment, he is quadriplegic, paraplegic or has had a part of his
6 body amputated; and

7 (b) He cannot be fitted with a prosthetic device which allows
8 him to operate a motor vehicle safely.

9 3. If an injured employee is entitled to receive a motor vehicle
10 pursuant to subsection 2, a motor vehicle must be modified to allow
11 the employee to operate it safely in the following order of
12 preference:

13 (a) A motor vehicle owned by the injured employee must be so
14 modified if the insurer or employer providing accident benefits
15 determines that it is reasonably feasible to do so.

16 (b) A used motor vehicle must be so modified if the insurer or
17 employer providing accident benefits determines that it is
18 reasonably feasible to do so.

19 (c) A new motor vehicle must be so modified.

20 **4. *The Administrator shall adopt regulations establishing a***
21 ***maximum benefit to be paid under the provisions of this section.***

22 **Sec. 4.** NRS 616C.315 is hereby amended to read as follows:

23 616C.315 1. Any person who is subject to the jurisdiction of
24 the hearing officers pursuant to chapters 616A to 616D, inclusive, or
25 chapter 617 of NRS may request a hearing before a hearing officer
26 of any matter within the hearing officer's authority. The insurer
27 shall provide, without cost, the forms necessary to request a hearing
28 to any person who requests them.

29 2. ***A request for a hearing must not be granted unless the***
30 ***request for a hearing includes:***

31 (a) ***The name and last known mailing address of:***

32 (1) ***The claimant;***

33 (2) ***The employer; and***

34 (3) ***The insurer;***

35 (b) ***The number of the claim; and***

36 (c) ***If applicable, a copy of the letter of determination being***
37 ***appealed, or if such a copy is unavailable, the date of the***
38 ***determination and the issues stated in the determination.***

39 3. Except as otherwise provided in NRS 616B.772, 616B.775,
40 616B.787 and 616C.305, a person who is aggrieved by:

41 (a) A written determination of an insurer; or

42 (b) The failure of an insurer to respond within 30 days to a
43 written request mailed to the insurer by the person who is
44 aggrieved,



1 may appeal from the determination or failure to respond by filing a
2 request for a hearing before a hearing officer. Such a request must
3 *include the information required pursuant to subsection 2 and*
4 *must* be filed within 70 days after the date on which the notice of
5 the insurer's determination was mailed by the insurer or the
6 unanswered written request was mailed to the insurer, as applicable.
7 The failure of an insurer to respond to a written request for a
8 determination within 30 days after receipt of such a request shall be
9 deemed by the hearing officer to be a denial of the request.

10 ~~[3.]~~ 4. Failure to file a request for a hearing within the period
11 specified in subsection ~~[2.]~~ 3 may be excused if the person aggrieved
12 shows by a preponderance of the evidence that he did not receive
13 the notice of the determination and the forms necessary to request a
14 hearing. The claimant or employer shall notify the insurer of a
15 change of address.

16 ~~[4.]~~ 5. The hearing before the hearing officer must be
17 conducted as expeditiously and informally as is practicable.

18 ~~[5.]~~ 6. The parties to a contested claim may, if the claimant is
19 represented by legal counsel, agree to forego a hearing before a
20 hearing officer and submit the contested claim directly to an appeals
21 officer.

22 **Sec. 5.** NRS 616C.345 is hereby amended to read as follows:

23 616C.345 1. Any party aggrieved by a decision of the
24 hearing officer relating to a claim for compensation may appeal
25 from the decision by filing a notice of appeal with an appeals officer
26 within 30 days after the date of the decision.

27 2. *A request for a hearing must be dismissed unless the*
28 *request for a hearing includes:*

29 (a) *The name and last known mailing address of:*

- 30 (1) *The claimant;*
31 (2) *The employer; and*
32 (3) *The insurer;*

33 (b) *The number of the claim; and*

34 (c) *A copy of the decision of the hearing officer being*
35 *appealed, or if such a copy is unavailable, the date of the*
36 *determination and the issues stated in the determination.*

37 3. If a dispute is required to be submitted to a procedure for
38 resolving complaints pursuant to NRS 616C.305 and:

39 (a) A final determination was rendered pursuant to that
40 procedure; or

41 (b) The dispute was not resolved pursuant to that procedure
42 within 14 days after it was submitted,

43 any party to the dispute may file a notice of appeal within 70 days
44 after the date on which the final determination was mailed to the
45 employee, or his dependent, or the unanswered request for



1 resolution was submitted. Failure to render a written determination
2 within 30 days after receipt of such a request shall be deemed by the
3 appeals officer to be a denial of the request.

4 ~~[3-]~~ 4. Except as otherwise provided in NRS 616C.380, the
5 filing of a notice of appeal does not automatically stay the
6 enforcement of the decision of a hearing officer or a determination
7 rendered pursuant to NRS 616C.305. The appeals officer may order
8 a stay, when appropriate, upon the application of a party. If such an
9 application is submitted, the decision is automatically stayed until a
10 determination is made concerning the application. A determination
11 on the application must be made within 30 days after the filing of
12 the application. If a stay is not granted by the officer after reviewing
13 the application, the decision must be complied with within 10 days
14 after the date of the refusal to grant a stay.

15 ~~[4-]~~ 5. Except as otherwise provided in this subsection, the
16 appeals officer shall, within 10 days after receiving a notice of
17 appeal pursuant to this section or a contested claim pursuant to
18 subsection ~~[5]~~ 6 of NRS 616C.315, schedule a hearing on the merits
19 of the appeal or contested claim for a date and time within 90 days
20 after his receipt of the notice and give notice by mail or by personal
21 service to all parties to the matter and their attorneys or agents at
22 least 30 days before the date and time scheduled. A request to
23 schedule the hearing for a date and time which is:

24 (a) Within 60 days after the receipt of the notice of appeal or
25 contested claim; or

26 (b) More than 90 days after the receipt of the notice or
27 claim,

28 may be submitted to the appeals officer only if all parties to the
29 appeal or contested claim agree to the request.

30 ~~[5-]~~ 6. An appeal or contested claim may be continued upon
31 written stipulation of all parties, or upon good cause shown.

32 ~~[6-]~~ 7. Failure to file a notice of appeal within the period
33 specified in subsection 1 or ~~[2]~~ 3 may be excused if the party
34 aggrieved shows by a preponderance of the evidence that he did not
35 receive the notice of the determination and the forms necessary to
36 appeal the determination. The claimant, employer or insurer shall
37 notify the hearing officer of a change of address.

38 **Sec. 6.** 1. This section and sections 4 and 5 of this act
39 become effective upon passage and approval.

40 2. Section 3 of this act becomes effective upon passage and
41 approval for the purpose of adopting regulations and on October 1,
42 2003, for all other purposes.



1 3. Sections 1 and 2 of this act become effective on January 1,
2 2004.

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