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HOUSE BILL NO. 410

Offered January 13, 2000

A BILL to amend and reenact § 65.2-504 of the Code of Virginia, relating to workers compensation for disability from coal worker's pneumoconiosis; defining average weekly wage.

Patron—Phillips

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That § 65.2-504 of the Code of Virginia is amended and reenacted as follows:

§ 65.2-504. Compensation for disability from coal worker's pneumoconiosis; insurance of coal operator.

A. An employee eligible for an award for coal worker's pneumoconiosis benefits shall be compensated according to the following schedule:

1. For first stage coal worker's pneumoconiosis medically determined from radiographic evidence and classified under International Labour Office Classification of Radiographs of the Pneumoconioses (1980) where there is no present impairment for work, 66 2/3 percent of the average weekly wage ~~during the three years prior to the filing date~~ as defined in § 65.2-101, for fifty weeks, up to 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500.

2. For second stage coal worker's pneumoconiosis medically determined from radiographic evidence and classified under International Labour Office Classification of Radiographs of the Pneumoconioses (1980) where there is no present impairment for work, 66 2/3 percent of the average weekly ~~wages~~ wage as defined in § 65.2-101 for 100 weeks, up to 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500.

3. For third stage coal worker's pneumoconiosis medically determined from radiographic evidence and classified under International Labour Office Classification of Radiographs of the Pneumoconioses (1980) and involving progressive massive fibrosis or medically classified as being A, B or C under the International Labour Office (hereafter referred to as I.L.O.) classifications but where there is no apparent impairment for work, 66 2/3 percent of the average weekly ~~wages~~ wage as defined in § 65.2-101, for 300 weeks, up to 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500.

4. For coal worker's pneumoconiosis medically determined to be A, B or C under the I.L.O. classifications or which involves progressive massive fibrosis, or for any stage of coal worker's pneumoconiosis when it is accompanied by sufficient pulmonary function loss as shown by approved medical tests and standards to render an employee totally unable to do manual labor in a dusty environment and the employee is instructed by competent medical authority not to attempt to do work in any mine or dusty environment and if he is in fact not working, it shall be deemed that he has a permanent disability and he shall receive 66 2/3 percent of his average weekly ~~wages~~ wage as defined in § 65.2-101 during the three years prior to the date of filing of the claim, up to 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500 for his lifetime without limit as to the total amount.

B. In any case where partial disability as mentioned in subsection A of this section later results in total disability, the employer shall receive credit on any permanent disability payments by being allowed to deduct 25 percent of each weekly payment until payments for partial disability hereunder have been fully accounted for.

C. In any case where there is a question of whether a claimant with pneumoconiosis is suffering from coal worker's pneumoconiosis or from some other type of pneumoconiosis such as silicosis, it shall be conclusively presumed that he is suffering from coal worker's pneumoconiosis if he has had injurious exposure to coal dust.

D. In the event that any coal operator wishes to insure himself under standard workers' compensation insurance rather than be self-insured against the risks and liabilities imposed by this section or by § 65.2-513, any such insurance issued in this Commonwealth covering such risks shall be rated separately for premium purposes and shall not affect workers' compensation rates for any other employers not exposed to such risks.

INTRODUCED

HB410