

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 586

An Act to amend the Code of Virginia by adding in Chapter 3 of Title 65.2 a section numbered 65.2-313, relating to workers' compensation; suspension of benefits following recovery from third party.

[H 1279]

Approved April 9, 1994

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 65.2 a section numbered 65.2-313 as follows:

§ 65.2-313. Method of determining employer's offset in event of recovery under § 65.2-309 or § 65.2-310.

In any action or claim for damages by an employee, his personal representative or other person against any person other than the employer under § 65.2-310, or in any action brought, or claim asserted, by the employer under his right of subrogation provided for in § 65.2-309, if a recovery is effected, the employer shall pay to the employee a percentage of each further entitlement as it is submitted equal to the ratio the total attorney's fees and costs bear to the total third-party recovery until such time as the accrued post-recovery entitlement equals that sum which is the difference between the gross recovery and the employer's compensation lien. In ordering payments under this section, the Commission shall take into account any apportionment made pursuant to § 65.2-311.

For the purposes of this section, "entitlement" means compensation and expenses for medical, surgical and hospital attention and funeral expenses to which the claimant is entitled under the provisions of this title, which entitlements are related to the injury for which the third-party recovery was effected.