

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 319

An Act to amend and reenact §§ 65.2-502 and 65.2-510 of the Code of Virginia, relating to workers' compensation; refusal of employment; compensation for partial incapacity.

[H 2022]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 65.2-502 and 65.2-510 of the Code of Virginia are amended and reenacted as follows:

§ 65.2-502. Compensation for partial incapacity.

Except as otherwise provided in § 65.2-503 or § 65.2-510, when the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as hereinafter provided, to the injured employee during such incapacity a weekly compensation equal to 66 2/3 percent of the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than 100 percent of the average weekly wage of the Commonwealth as defined in § 65.2-500. In no case shall the period covered by such compensation be greater than 500 weeks. In case the partial incapacity begins after a period of total incapacity, the latter period shall be deducted from the maximum period herein allowed for partial incapacity.

§ 65.2-510. Refusal of employment; compensation for partial incapacity.

A. If an injured employee refuses employment procured for him suitable to his capacity, he shall only be entitled to the benefits provided for in §§ 65.2-503 and 65.2-603, *excluding vocational rehabilitation services provided for in subdivision A 3 of § 65.2-603*, during the continuance of such refusal, unless in the opinion of the Commission such refusal was justified.

B. *If an injured employee cures his unjustified refusal by accepting employment suitable to his capacity at a wage less than that originally offered, the employer shall pay or cause to be paid to the injured employee during his partial incapacity pursuant to § 65.2-502, a weekly compensation equal to 66 2/3 percent of the difference between his average weekly wages before his injury and the average weekly wage the employee would have earned by accepting the original proffered light duty employment.*

C. *A cure of unjustified refusal pursuant to subsection A may not be established if the unjustified refusal lasts more than six months from the last day for which compensation was paid before suspension pursuant to this section; provided, however, the aforesaid six-month period may be extended by the number of days a claimant is totally disabled as long as said disability commenced during the aforesaid six month period.*