

AMENDMENTS TO HOUSE BILL NO. 18

Sponsor: REPRESENTATIVE NEUMAN

Printer's No. 2014

1 Amend Bill, page 1, line 9, by inserting after "injuries"
2 and further providing for wages

3 Amend Bill, page 7, line 16, by striking out all of said line
4 and inserting

5 Section 2. Clauses (d) and (e) of section 309 of the act are
6 amended and the section is amended by adding a clause to read:

7 Section 309. Wherever in this article the term "wages" is
8 used, it shall be construed to mean the average weekly wages of
9 the employe, ascertained as follows:

10 * * *

11 (d) (1) If at the time of the injury the wages are fixed by
12 any manner not enumerated in clause (a), (b) or (c), the average
13 weekly wage shall be calculated by [dividing by thirteen the
14 total wages earned in the employ of the employer in each of the
15 highest three of the last four consecutive periods of thirteen
16 calendar weeks in the fifty-two weeks immediately preceding the
17 injury and by averaging the total amounts earned during these
18 three periods.] taking the employe's gross wages, including, but
19 not limited to, bonuses, incentive pay, commissions, gratuities
20 and vacation pay earned in the fifty-two weeks immediately
21 preceding the injury, and dividing by the number of calendar
22 weeks and any fraction thereof actually worked by the employe
23 for that employer.

24 (2) If the employe has worked for the employer for less than
25 one week, then the average weekly wage shall be calculated by
26 taking the gross wages, including, but not limited to, bonuses,
27 incentive pay, commissions, gratuities and vacation pay earned,
28 divided by the number of days worked and multiplied by five
29 days. Under this calculation method, the employe shall be
30 presumed to have worked a five-day week unless the employer or
31 employe demonstrates that the terms of employment were for more
32 or fewer than five days per week.

33 * * *

34 (e) [Except as provided in clause (d.1) or (d.2), in
35 occupations which are exclusively seasonal and therefore cannot
36 be carried on throughout the year, the average weekly wage shall
37 be taken to be one-fiftieth of the total wages which the employe

1 has earned from all occupations during the twelve calendar
2 months immediately preceding the injury, unless it be shown that
3 during such year, by reason of exceptional causes, such method
4 of computation does not ascertain fairly the earnings of the
5 employe, in which case the period for calculation shall be
6 extended so far as to give a basis for the fair ascertainment of
7 his average weekly earnings.]

8 The terms "average weekly wage" and "total wages," as used in
9 this section, shall include board and lodging received from the
10 employer, and gratuities reported or to be reported to the
11 United States Internal Revenue Service by or for the employe for
12 Federal income tax purposes, but such terms shall not include
13 amounts deducted by the employer under the contract of hiring
14 for labor furnished or paid for by the employer and necessary
15 for the performance of such contract by the employe, nor shall
16 such terms include deductions from wages due the employer for
17 rent and supplies necessary for the employe's use in the
18 performance of his labor, nor shall such terms include fringe
19 benefits, including, but not limited to, employer payments for
20 or contributions to a retirement, pension, health and welfare,
21 life insurance, social security or any other plan for the
22 benefit of the employe or his dependents: Provided, however,
23 That [the amount of any bonus, incentive or vacation payment
24 earned on an annual basis shall be excluded from the
25 calculations under clauses (a) through (d.2). Such payments if
26 any shall instead be divided by fifty-two and the amount shall
27 be added to the average weekly wage otherwise calculated under
28 clauses (a) through (d.2).] if the employer provides health care
29 coverage for an employe, the employe's dependents, or both, the
30 employer shall continue to provide the same coverage during the
31 period of the employe's disability.

32 Where the employe is working under concurrent contracts with
33 two or more employers, his wages from all such employers shall
34 be considered as if earned from the employer liable for
35 compensation.

36 (f) The right of an employe who is receiving benefits for
37 total or partial disability shall not be affected by said
38 employe's retirement from the work force unless the employer can
39 establish, after a full hearing before a workers' compensation
40 judge assigned by the department, that the disability has
41 ceased, terminated or been modified to permit the termination,
42 suspension or modification of the benefits. The right of the
43 employe, as defined by this section, includes employes who
44 suffer an occupational disease within the three hundred-week
45 limit provided by this act under section 306(c)(2).

46 Section 3. Section 420 of the act is amended to read:

47 Amend Bill, page 8, line 18, by striking out "3" and

48 inserting

49 4

1 Amend Bill, page 8, line 22, by striking out "4" and
2 inserting
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