

TITLE

A referendum petition on Amended Substitute Senate Bill Number 7 passed by the 126th General Assembly on March 8, 2006 (Passage by the Senate on June 1, 2005; Passage by the House on March 8, 2006; Senate concurrence in House amendments on March 8, 2006) and signed by the Governor on March 28, 2006 and filed with the Secretary of State on March 31, 2006.

SUMMARY

Am. Sub. S. B. 7 revises existing and enacts new provisions of the Revised Code relating to the Workers' Compensation Law, including, but not limited to, the following:

- Specifies that information concerning claims filed with the Bureau of Workers' Compensation or the Industrial Commission, including information identifying a claimant's address and telephone number, is not a public record under the Public Records Law (sec. 149.43) and is not open to the public, except to journalists as described below.
- Permits a journalist to request claimants' addresses and phone numbers and requires the Commission or the Bureau to disclose those requested addresses and telephone numbers to the journalist.
- Prohibits the Workers' Compensation Oversight Commission from specifying that the Administrator or employees of the BWC are prohibited from conducting business with an investment management firm or certain related entities based on criteria that are more restrictive than restrictions in R.C. 3517.13(Y) and (Z) of the Campaign Finance Law.
- Designates the Bureau of Workers' Compensation Special Investigation Department a criminal justice agency, and allows the Department to apply to access the computerized databases administered by the National Crime Information Center or the Law Enforcement Automated Data System (LEADS) in Ohio and other criminal databases.
- Specifies that "injury" does not include psychiatric conditions except when they arise from an injury or occupational disease sustained by the claimant or where the claimant's psychiatric conditions have arisen from sexual conduct in which the claimant was forced by threat of physical harm to engage or participate.
- Specifies that "injury" does not include a condition that pre-existed the injury unless the condition is substantially aggravated by the injury and the aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of "substantial aggravation" but are insufficient without the objective findings or results.
- Specifies that a claimant may not dismiss a complaint filed with a court of common pleas concerning an appeal of an Industrial Commission decision without the employer's consent if the employer is the party that filed the appeal with the court.
- Raises the limit of a claimant's attorneys fees upon a successful final determination of an appeal to court from \$2,500 to \$4,200.
- Provides for self-insuring employers to choose to pay compensation and benefits directly under certain circumstances.

- Reduces from six to five years from the date of injury the time in which the Industrial Commission may make a modification, change, finding, or award in respect of any claim made with respect to disability, compensation, dependency, or benefits in the absence of the payment of medical benefits under Chapter 4123 of the Revised Code, or in the absence of payment of compensation under section 4123.57, 4123.58, or division (A) or (B) of section 4123.56 of the Revised Code or wages in lieu of compensation in a manner so as to satisfy the requirements of section 4123.84 of the Revised Code, reduces from ten to five years from the date of the last payment of compensation or from the date of death the time in which the modification, change, finding, or award may be made, nor unless written notice of claim for the specific part or parts of the body injured or disabled has been given as provided in section 4123.84 or 4123.85 of the Revised Code.
- Specifies that if a condition that pre-existed an injury is substantially aggravated by the injury, and that substantial aggravation is documented by objective diagnostic findings, objective clinical findings, or objective test results, once that condition has returned to a level that would have existed without the injury, no compensation or benefits are payable because of the pre-existing condition.
- Adds that persons, while confined to a county jail in lieu of incarceration in a state or federal correctional institution may not receive compensation or benefits during the period of confinement.
- Changes the number of weeks an employee may receive payments for wage loss suffered as a result of returning to employment other than the employee's former position of employment or for being unable to find employment consistent with the employee's physical capabilities.
- Provides that the calculation of average weekly wage for compensation with respect to permanent total disability shall be based on the statewide average weekly wage in effect on the date of injury or on the date of the disability due to the occupational disease begins.
- Specifies qualifications for eligibility and ineligibility for permanent total disability compensation.
- Specifies that an employee receiving compensation for permanent total disability due to a traumatic brain injury is entitled to receive that compensation regardless of the employee's subsequent employment in a sheltered workshop so long as the employee does not receive more than \$2,000 in compensation from the job per calendar quarter.
- Provides that the administrator shall not recalculate a claimant's average weekly wage for permanent total disability awards solely for the reason that the claimant continued working and the claimant's wages increased following the injury.
- Specifies circumstances where a claimant may file an application for approval of a settlement agreement without the employer's signature.
- Allows any party to void a settlement agreement if an employee dies during the prescribed 30-day waiting period after approval of a final settlement agreement.
- If a majority of voters do not approve these portions of Am. Sub. S. B. No. 7, then the changes enacted by the legislation will not take effect and the prior version of the law will remain effective.

CERTIFICATION OF ATTORNEY GENERAL

Without passing upon the advisability of the approval or rejection of the measure to be referred, but pursuant to the duties imposed upon me under Section 3519.01(B)(3) of the Ohio Revised Code, I hereby certify that the summary is a fair and truthful statement of the proposed referendum concerning the legislation known as Am. Sub. S. B. No. 7 of the 126th General Assembly.

Jim Petro
Attorney General
April 17, 2006