

JAN 18 2007

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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 386-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3           "(b) No compensation shall be allowed for [an]:

4           (1) An injury incurred by an employee by the employee's  
5           wilful intention to injure [~~oneself~~] the employee or  
6           another by actively engaging in any unprovoked non-  
7           work related physical altercation other than in self  
8           defense, or by the employee's intoxication[~~-~~]; or

9           (2) Voluntary participation in any recreational or social  
10           activity after regular work hours solely for the  
11           employee's personal pleasure, including employer-  
12           sponsored sporting events, team activities, parties,  
13           and picnics."

14           SECTION 2. Section 386-32, Hawaii Revised Statutes, is  
15 amended by amending subsection (a) to read as follows:

16           "(a) Permanent partial disability. Where a work injury  
17 causes permanent partial disability, the employer shall pay the



1 injured worker [~~compensation in an amount determined by~~  
2 ~~multiplying the effective maximum weekly benefit rate prescribed~~  
3 ~~in section 386-31 by the number of weeks specified for the~~  
4 ~~disability as follows:] a weekly benefit equal to sixty-six and  
5 two-thirds per cent of the employee's average weekly wages,  
6 subject to the limitations on weekly benefit rates prescribed in  
7 section 386-31, for the number of weeks specified for the  
8 disability as follows:~~

9       Thumb. For the loss of thumb, seventy-five weeks;

10       First finger. For the loss of a first finger, commonly  
11 called index finger, forty-six weeks;

12       Second finger. For the loss of a second finger, commonly  
13 called the middle finger, thirty weeks;

14       Third finger. For the loss of a third finger, commonly  
15 called the ring finger, twenty-five weeks;

16       Fourth finger. For the loss of a fourth finger, commonly  
17 called the little finger, fifteen weeks;

18       Phalanx of thumb or finger. Loss of the first phalanx of  
19 the thumb shall be equal to the loss of three-fourths of the  
20 thumb, and compensation shall be three-fourths of the amount  
21 above specified for the loss of the thumb. The loss of the  
22 first phalanx of any finger shall be equal to the loss of one-



1 half of the finger, and compensation shall be one-half of the  
2 amount above specified for loss of the finger. The loss of more  
3 than one phalanx of the thumb or any finger shall be considered  
4 as loss of the entire thumb or finger;

5 Great toe. For the loss of a great toe, thirty-eight  
6 weeks;

7 Other toes. For the loss of one of the toes other than the  
8 great toe, sixteen weeks;

9 Phalanx of toe. Loss of the first phalanx of any toe shall  
10 be equal to the loss of one-half of the toe, and the  
11 compensation shall be one-half of the amount specified for the  
12 loss of the toe. The loss of more than one phalanx of any toe  
13 shall be considered as the loss of the entire toe;

14 Hand. For the loss of a hand, two hundred forty-four  
15 weeks;

16 Arm. For the loss of an arm, three hundred twelve weeks;

17 Foot. For the loss of a foot, two hundred five weeks;

18 Leg. For the loss of a leg, two hundred eighty-eight  
19 weeks;

20 Eye. For the loss of an eye by enucleation, one hundred  
21 sixty weeks. For the loss of vision in an eye, one hundred  
22 forty weeks. Loss of binocular vision or of eighty per cent of



1 the vision of an eye shall be considered loss of vision of the  
2 eye;

3 Ear. For the permanent and complete loss of hearing in  
4 both ears, two hundred weeks. For the permanent and complete  
5 loss of hearing in one ear, fifty-two weeks. For the loss of  
6 both ears, eighty weeks. For the loss of one ear, forty weeks;

7 Loss of use. Permanent loss of the use of a hand, arm,  
8 foot, leg, thumb, finger, toe, or phalanx shall be equal to and  
9 compensated as the loss of a hand, arm, foot, leg, thumb,  
10 finger, toe, or phalanx;

11 Partial loss or loss of use of member named in schedule.  
12 Where a work injury causes permanent partial disability  
13 resulting from partial loss of use of a member named in this  
14 schedule, and where the disability is not otherwise compensated  
15 in this schedule, compensation shall be paid for a period that  
16 stands in the same proportion to the period specified for the  
17 total loss or loss of use of the member as the partial loss or  
18 loss of use of that member stands to the total loss or loss of  
19 use thereof;

20 More than one finger or toe of same hand or foot. In cases  
21 of permanent partial disability resulting from simultaneous  
22 injury to the thumb and one or more fingers of one hand, or to



1 two or more fingers of one hand, or to the great toe and one or  
2 more toes other than the great toe of one foot, or to two or  
3 more toes other than the great toe of one foot, the disability  
4 may be rated as a partial loss or loss of use of the hand or the  
5 foot and the period of benefit payments shall be measured  
6 accordingly. In no case shall the compensation for loss or loss  
7 of use of more than one finger or toe of the same hand or foot  
8 exceed the amount provided in this schedule for the loss of a  
9 hand or foot;

10 Amputation. Amputation between the elbow and the wrist  
11 shall be rated as the equivalent of the loss of a hand.  
12 Amputation between the knee and the ankle shall be rated as the  
13 equivalent of the loss of a foot. Amputation at or above the  
14 elbow shall be rated as the loss of an arm. Amputation at or  
15 above the knee shall be rated as the loss of a leg;

16 Disfigurement. In cases of personal injury resulting in  
17 disfigurement, the director may award compensation not to exceed  
18 \$30,000 as the director deems proper and equitable in view of  
19 the disfigurement. Disfigurement shall be separate from other  
20 permanent partial disabilities and shall include scarring and  
21 other disfiguring consequences caused by medical, surgical, and  
22 hospital treatment of the employee;



1           Other cases. In all other cases of permanent partial  
2 disability resulting from the loss or loss of use of a part of  
3 the body or from the impairment of any physical function, weekly  
4 benefits shall be paid at the rate and subject to the  
5 limitations specified in this subsection for a period that bears  
6 the same relation to a period named in the schedule as the  
7 disability sustained bears to a comparable disability named in  
8 the schedule. In cases in which the permanent partial  
9 disability must be rated as a percentage of the total loss or  
10 impairment of a physical or mental function of the whole person,  
11 the maximum compensation shall be computed on the basis of the  
12 corresponding percentage of the product of three hundred twelve  
13 times the effective maximum weekly benefit rate prescribed in  
14 section 386-31.

15           Payment of compensation for permanent partial disability.  
16 Compensation for permanent partial disability shall be paid in  
17 weekly installments at the rate of sixty-six and two-thirds per  
18 cent of the worker's average weekly wage, subject to the  
19 limitations on weekly benefit rates prescribed in section 386-  
20 31.

21           Unconditional nature and time of commencement of payment.  
22 Compensation for permanent partial disability shall be paid



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1 regardless of the earnings of the disabled employee subsequent  
2 to the injury. Payments shall not commence until after  
3 termination of any temporary total disability that may be caused  
4 by the injury."

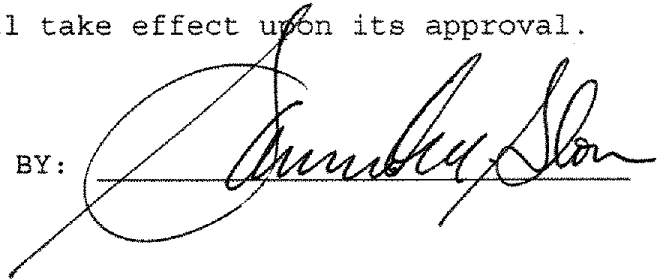
5 SECTION 3. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun, before its effective date.

8 SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY:

A handwritten signature in black ink, appearing to read "Assemblyman Stan", is written over a horizontal line. The signature is stylized and cursive.

**Report Title:**

Workers' Comp

**Description:**

Disallows workers' compensation benefits for injuries sustained during after work employer-sponsored voluntary recreational or social activities. Clarifies that calculations of permanent partial disability awards are patterned after those of permanent total disability awards.

