

ACT 46

H.B. NO. 2554

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-33, Hawaii Revised Statutes, is amended to read as follows:

“§386-33 Subsequent injuries that would increase disability. (a) Where prior to any injury an employee suffers from a previous permanent partial disability already existing prior to the injury for which compensation is claimed, and the disability resulting from the injury combines with the previous disability, whether the previous permanent partial disability was incurred during past or present periods of employment, to result in a greater permanent partial disability or in permanent total disability or in death, then weekly benefits shall be paid as follows:

- (1) In cases where the disability resulting from the injury combines with the previous disability to result in greater permanent partial disability the employer shall pay the employee compensation for the employee's actual permanent partial disability but for not more than one hundred four weeks; the balance if any of compensation payable to the employee for the employee's actual permanent partial disability shall thereafter be paid out of the special compensation fund; provided that in successive injury cases where the claimant's entire permanent partial disability is due to more than one compensable injury, the amount of the award for the subsequent injury shall be offset by the amount awarded for the prior compensable injury;
- (2) In cases where the disability resulting from the injury combines with the previous disability to result in permanent total disability, the employer shall pay the employee for one hundred four weeks and thereafter compensation for permanent total disability shall be paid out of the special compensation fund; and
- (3) In cases where the disability resulting from the injury combines with the previous disability to result in death the employer shall pay weekly benefits in accordance with sections 386-41 and 386-43 but for not more than one hundred four weeks; the balance of compensation payable under those sections shall thereafter be paid out of the special compensation fund.

(b) Notwithstanding subsection (a), [in the case of permanent total disability or death,] where the director or the appellate board determines that the previous permanent partial disability amounted to less than that necessary to support an award of thirty-two weeks of compensation for permanent partial disability, there shall be no liability on the special compensation fund[,] and the employer shall pay the employee or the employee's dependents full compensation for the employee's permanent partial or total disability or death.

(c) [Subsections (a) and (b) shall apply in all cases where the work injury occurs on or after May 15, 1982, and combines with a previous disability to result in a greater permanent partial disability or in permanent total disability or in death.] Effective July 1, 1995, subsection (a)(1), as amended, shall apply in all cases in which the work injury occurs on or after July 1, 1995, and combines with a previous

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disability from a compensable injury to result in a greater permanent partial disability.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 2000.)