

By: Burrows, Tepper, Longoria

H.B. No. 2468

Substitute the following for H.B. No. 2468:

By: Lambert

C.S.H.B. No. 2468

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of an injured employee for lifetime income benefits under the workers' compensation system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 408.0041, Labor Code, is amended by adding Subsection (k-1) to read as follows:

(k-1) If the report of a designated doctor indicates that an employee receiving lifetime income benefits under Section 408.1615 is no longer eligible to receive those benefits, the insurance carrier may suspend the payment of lifetime income benefits as provided by that section.

SECTION 2. Section 408.161(a), Labor Code, is amended to read as follows:

(a) Lifetime income benefits are paid until the death of the employee for:

- (1) total and permanent loss of sight in both eyes;
- (2) loss of both feet at or above the ankle;
- (3) loss of both hands at or above the wrist;
- (4) loss of one foot at or above the ankle and the loss of one hand at or above the wrist;
- (5) an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg;
- (6) a physically traumatic injury to the brain that,

1 as determined using evidence-based medicine, results in a permanent
2 major neurocognitive disorder:

3 (A) for which the employee requires occasional
4 supervision in the performance of routine daily tasks of self-care;
5 and

6 (B) that renders the employee permanently
7 unemployable [~~resulting in incurable insanity or imbecility~~]; or

8 (7) third degree burns that cover at least 40 percent
9 of the body and require grafting, or third degree burns covering the
10 majority of:

11 (A) [~~either~~] both hands;

12 (B) [~~or~~] one hand and one foot; or

13 (C) one hand or one foot and the face.

14 SECTION 3. Subchapter I, Chapter 408, Labor Code, is
15 amended by adding Section 408.1615 to read as follows:

16 Sec. 408.1615. LIFETIME INCOME BENEFITS FOR CERTAIN FIRST
17 RESPONDERS. (a) In this section:

18 (1) "First responder" means an individual who is:

19 (A) a peace officer under Article 2.12, Code of
20 Criminal Procedure;

21 (B) certified under Chapter 773, Health and
22 Safety Code, as an emergency care attendant, advanced emergency
23 medical technician, emergency medical technician-paramedic or a
24 licensed paramedic;

25 (C) a firefighter subject to certification by the
26 Texas Commission on Fire Protection under Chapter 419, Government
27 Code, whose principal duties are aircraft crash and rescue or fire

1 fighting; or

2 (D) an individual covered under Section 504.012
3 who is providing volunteer services as:

4 (i) a volunteer fire fighter, regardless of
5 whether the individual is certified under Chapter 419, Government
6 Code; or

7 (ii) an emergency medical services
8 volunteer, as defined by Section 773.003, Health and Safety Code.

9 (2) "Serious bodily injury" has the meaning assigned
10 by Section 1.07, Penal Code.

11 (b) This section applies only to an employee who sustains a
12 serious bodily injury, other than an injury described by Section
13 408.161, in the course and scope of the employee's employment or
14 volunteer service as a first responder that renders the employee
15 permanently unemployable.

16 (c) Except as otherwise provided by this section, an
17 employee to which this section applies is entitled to receive
18 lifetime income benefits paid until the employee's death for the
19 employee's injury. Sections 408.161(c) and (d) apply to the
20 payment of lifetime income benefits under this section.

21 (d) The division shall accelerate any dispute, including a
22 contested case hearing or appeal requested by the employee,
23 regarding an employee's eligibility for lifetime income benefits
24 under this section. The employee shall provide notice to the
25 division that the dispute involves a first responder.

26 (e) An employee receiving lifetime income benefits under
27 this section shall annually certify to the insurance carrier, in

1 the form and manner prescribed by the division, that the employee
2 was not employed in any capacity during the preceding year.

3 (f) Notwithstanding Sections 410.169 and 410.205, an
4 insurance carrier may periodically review an employee's
5 eligibility for lifetime income benefits under this section, but
6 not more than once during any five-year period.

7 (g) An employee is not entitled to lifetime income benefits
8 under this section, and an insurance carrier is authorized to
9 suspend the payment of lifetime income benefits, during and for a
10 period in which the employee fails to certify the employee's
11 eligibility under Subsection (e), the employee is employed in any
12 capacity, or as provided under Section 408.0041(k-1), unless the
13 commissioner determines that there is good cause. The commissioner
14 by rule shall ensure that an employee receives reasonable notice of
15 the insurance carrier's basis for the suspension and is provided a
16 reasonable opportunity to certify the employee's eligibility under
17 Subsection (e) or otherwise respond to the notice.

18 (h) The commissioner shall adopt rules necessary to
19 implement this section, including rules:

20 (1) prescribing the form and manner for the annual
21 certification required by Subsection (e); and

22 (2) establishing procedures for:

23 (A) the suspension and reinstatement of lifetime
24 income benefits under Subsection (g); and

25 (B) the termination of lifetime income benefits
26 under this section on a final determination that an employee is no
27 longer eligible for the benefits.

1 SECTION 4. The changes in law made by this Act apply to a
2 claim for lifetime income benefits based on a compensable injury
3 that occurs on or after the effective date of this Act. A claim
4 based on a compensable injury that occurs before the effective date
5 of this Act is governed by the law in effect on the date the
6 compensable injury occurred, and the former law is continued in
7 effect for that purpose.

8 SECTION 5. This Act takes effect September 1, 2023.