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ASSEMBLY BILL NO. 229—COMMITTEE  
ON COMMERCE AND LABOR

MARCH 5, 2015

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Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing workers' compensation. (BDR 53-754)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to workers' compensation; revising the period during which certain injured employees must file a claim for compensation with an insurer; revising provisions relating to the adoption by reference of standards for evaluating permanent impairment; providing that compensation is not payable if an injury is proximately caused by an employee's use of a prohibited substance; providing that the results of any test to determine whether an injured employee used alcohol or a controlled or prohibited substance must be made available to an insurer or employer upon request; authorizing an insurer to deny compensation for temporary total disability and vocational rehabilitation services under certain circumstances; revising procedures relating to the stay of a decision of an appeals officer; revising provisions relating to the time period and requirements for reopening a closed claim; revising provisions relating to the payment of benefits for a temporary total disability or vocation rehabilitation services following the reopening of a claim; revising provisions relating to certain payments to an injured employee of lump-sum compensation; and providing other matters properly relating thereto.



**Legislative Counsel's Digest:**

1 This bill revises various provisions of the Nevada Industrial Insurance Act  
2 (Chapters 616A-616D of NRS), which provide for the payment of compensation to  
3 employees who are injured or disabled as a result of an occupational injury or  
4 disease.

5 Existing provisions of the Act provide that an employee is not entitled to accrue  
6 or be paid certain benefits while the employee is in jail or otherwise "incarcerated."  
7 (NRS 616C.475, 616C.500, 616C.590) For the purpose of these provisions, **section**  
8 **1** of this bill revises the definition of that term to include confinement during a  
9 period of weekend incarceration or house arrest.

10 **Section 2** of this bill revises from 90 days to 30 days the period in which  
11 certain injured employees must file a claim for compensation with an insurer.

12 **Section 3** of this bill provides for the adoption of the sixth edition of the  
13 American Medical Association's *Guides to the Evaluation of Permanent*  
14 *Impairment* and provides that the Division of Industrial Relations of the  
15 Department of Business and Industry shall adopt regulations incorporating the most  
16 recent edition of the *Guides* within 18 months after the publication of the edition.

17 Existing law provides that compensation is not payable if an injured  
18 employee's injury is proximately caused by the employee's use of a controlled  
19 substance. (NRS 616C.230) **Section 4** of this bill expands this provision to include  
20 prohibited substances. Additionally, **section 4** requires that the results of any test  
21 for the use of alcohol or a controlled or prohibited substance by an injured  
22 employee be provided to the insurer or employer upon request.

23 **Section 5** of this bill authorizes an insurer to deny compensation for temporary  
24 total disability benefits and vocational rehabilitation services if an injured employee  
25 is discharged from his or her employment as a result of misconduct or if an injured  
26 employee voluntarily resigns as a result of misconduct.

27 Existing law requires an insurer who has closed a claim before all benefits to  
28 which the claimant may be entitled have been paid to provide certain notice to the  
29 claimant. (NRS 616C.235) **Section 6** of this bill allows an insurer, at its own  
30 discretion, to authorize continued medication or services be provided to a claimant  
31 after such a claim has been closed.

32 Under existing law, the decision of an appeals officer is not stayed by an appeal  
33 from the decision unless a stay is granted by the appeals officer or district court.  
34 (NRS 616C.375) **Section 7** of this bill provides that such a decision is  
35 automatically stayed by the submission of a request for a stay and that the stay  
36 remains in effect until the appeals officer or district court rules on the request and  
37 sets certain deadlines for ruling on such a request.

38 Existing law provides certain requirements for reopening a claim which include  
39 certain time limitations for filing an application to reopen a claim. (NRS 616C.390)  
40 **Section 8** of this bill revises the time limitations for filing an application to reopen  
41 a claim. Existing law also provides that an injured employee whose claim is  
42 reopened is not eligible for temporary total disability benefits if the employee is  
43 retired or voluntarily left the workforce. (NRS 616C.390) **Section 8** adds to  
44 this provision that such an employee is not eligible for these benefits if he or she  
45 was terminated for misconduct or if a physician determined that the employee was  
46 capable of engaging in temporary, modified employment and such employment was  
47 made available by the employer.

48 Existing law requires an insurer to reopen a claim to consider payment for a  
49 permanent partial disability under certain conditions. (NRS 616C.392) **Section 9** of  
50 this bill requires an employee requesting such a reopening of his or her claim to  
51 complete certain requirements within 1 year after the date the claim was closed.

52 **Section 10** of this bill provides for recovery by an insurer of the amount of any  
53 lump sum paid to an injured employee for vocational rehabilitation services when



54 an injured employee is determined, subsequent to the payment of the lump sum, to  
55 be permanently and totally disabled.

56 **Section 11** of this bill revises provisions concerning the gross wages and  
57 employment benefits which must be provided pursuant to an offer of temporary,  
58 light-duty employment.

59 Existing law provides for the development of a plan for a program of vocational  
60 rehabilitation for certain injured employees, which may include on-the-job training.  
61 Under existing law, the insurer is required to pay a percentage of the wages of an  
62 employee who is receiving such training. (NRS 616C.555, 616C.570) **Section 12** of  
63 this bill provides, instead, for the payment of benefits for temporary partial  
64 disability to such an employee.

65 **Section 13** of this bill revises provisions relating to an injured employee's  
66 entitlement, after the lump-sum payment of a claim, to vocational rehabilitation  
67 services or benefits for a temporary total disability.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 616A.250 is hereby amended to read as  
2 follows:

3 616A.250 [~~“Incarcerated”~~]

4 *1. Except as otherwise provided in subsection 2,*  
5 *“incarcerated” means confined in:*

6 ~~1-1~~ (a) Any local detention facility, county jail, state prison,  
7 reformatory or other correctional facility as a result of a conviction  
8 or a plea of guilty, guilty but mentally ill or nolo contendere in a  
9 criminal proceeding; or

10 ~~1-2~~ (b) Any institution or facility for persons with mental  
11 illness as a result of a plea of not guilty by reason of insanity in a  
12 criminal proceeding,

13 ~~1-3~~ in this State, another state or a foreign country.

14 *2. For the purposes of NRS 616C.475, 616C.500 and*  
15 *616C.590, a person is also “incarcerated” while confined during a*  
16 *period of weekend incarceration or house arrest.*

17 **Sec. 2.** NRS 616C.020 is hereby amended to read as follows:

18 616C.020 1. Except as otherwise provided in subsection 2, an  
19 injured employee, or a person acting on behalf of the employee,  
20 shall file a claim for compensation with the insurer within ~~90~~ 30  
21 days after an accident if:

22 (a) The employee has sought medical treatment for an injury  
23 arising out of and in the course of his or her employment; or

24 (b) The employee was off work as a result of an injury arising  
25 out of and in the course of his or her employment.

26 2. In the event of the death of the injured employee resulting  
27 from the injury, a dependent of the employee, or a person acting on  
28 behalf of the employee, shall file a claim for compensation with the  
29 insurer within 1 year after the death of the injured employee.



1 3. The claim for compensation must be filed on a form  
2 prescribed by the Administrator.

3 **Sec. 3.** NRS 616C.110 is hereby amended to read as follows:

4 616C.110 1. For the purposes of NRS 616B.557, 616B.578,  
5 616B.587, 616C.490 and 617.459 ~~[, not]~~ :

6 (a) *Not* later than August 1, ~~[2003,]~~ **2015**, the Division shall  
7 adopt regulations incorporating the American Medical Association's  
8 Guides to the Evaluation of Permanent Impairment, ~~[Fifth]~~ **Sixth**  
9 Edition, by reference. The regulations:

10 ~~[(a) Must provide that the American Medical Association's~~  
11 ~~Guides to the Evaluation of Permanent Impairment, Fifth Edition,~~  
12 ~~must be applied to all examinations; and~~

13 ~~—(b)] (1) Must become effective on October 1, 2015; and~~

14 (2) *Must be applied to all examinations for a permanent*  
15 *partial disability that are conducted on or after October 1, 2015,*  
16 *regardless of the date of the injury, until regulations incorporating*  
17 *any subsequent edition by reference have become effective*  
18 *pursuant to paragraph (b).*

19 (b) *Beginning with the publication of the edition immediately*  
20 *subsequent to the Sixth Edition, and continuing for each*  
21 *subsequent edition thereafter, the Division shall adopt regulations*  
22 *incorporating the most recent edition of the American Medical*  
23 *Association's Guides to the Evaluation of Permanent Impairment,*  
24 *or its successor publication, by reference. The regulations:*

25 (1) *Must become effective not later than 18 months after*  
26 *the most recent edition is published by the American Medical*  
27 *Association; and*

28 (2) *Must be applied to all examinations for a permanent*  
29 *partial disability that are conducted on or after the effective date of*  
30 *the regulations, regardless of the date of injury ~~[,]~~, until regulations*  
31 *incorporating the next edition by reference have become effective*  
32 *pursuant to this paragraph.*

33 2. After adopting the regulations required pursuant to  
34 subsection 1, the Division may amend those regulations as it deems  
35 necessary, except that the amendments to those regulations:

36 (a) *Must be consistent with the ~~[Fifth Edition]~~ edition of the*  
37 *American Medical Association's Guides to the Evaluation of*  
38 *Permanent Impairment ~~[,]~~ **most recently adopted by the Division;***

39 (b) *Must not incorporate any contradictory matter from any*  
40 *other edition of the American Medical Association's Guides to the*  
41 *Evaluation of Permanent Impairment; and*

42 (c) *Must not consider any factors other than the degree of*  
43 *physical impairment of the whole person in calculating the*  
44 *entitlement to compensation.*



1 3. If the  ~~Fifth Edition~~ *edition* of the American Medical  
2 Association's Guides to the Evaluation of Permanent Impairment  
3 *most recently adopted by the Division* contains more than one  
4 method of determining the rating of an impairment, the  
5 Administrator shall designate by regulation the method from that  
6 edition which must be used to rate an impairment pursuant to  
7 NRS 616C.490.

8 **Sec. 4.** NRS 616C.230 is hereby amended to read as follows:

9 616C.230 1. Compensation is not payable pursuant to the  
10 provisions of chapters 616A to 616D, inclusive, or chapter 617 of  
11 NRS for an injury:

12 (a) Caused by the employee's willful intention to injure himself  
13 or herself.

14 (b) Caused by the employee's willful intention to injure another.

15 (c) Proximately caused by the employee's intoxication. If the  
16 employee was intoxicated at the time of his or her injury,  
17 intoxication must be presumed to be a proximate cause unless  
18 rebutted by evidence to the contrary.

19 (d) Proximately caused by the employee's use of a controlled *or*  
20 *prohibited* substance. If the employee had any amount of a  
21 controlled *or prohibited* substance in his or her system at the time of  
22 his or her injury for which the employee did not have a current and  
23 lawful prescription issued in the employee's name or that the  
24 employee was not using in accordance with the provisions of  
25 chapter 453A of NRS, the controlled *or prohibited* substance must  
26 be presumed to be a proximate cause unless rebutted by evidence to  
27 the contrary.

28 2. For the purposes of paragraphs (c) and (d) of subsection 1:

29 (a) The affidavit or declaration of an expert or other person  
30 described in NRS 50.310, 50.315 or 50.320 is admissible to prove  
31 the existence of any alcohol or the existence, quantity or identity of  
32 a controlled *or prohibited* substance in an employee's system. If the  
33 affidavit or declaration is to be so used, it must be submitted in the  
34 manner prescribed in NRS 616C.355.

35 (b) When an examination requested or ordered includes testing  
36 for the use of alcohol or a controlled *or prohibited* substance  
37 ~~[- the]~~ :

38 (1) *The* laboratory that conducts the testing must be licensed  
39 pursuant to the provisions of chapter 652 of NRS ~~[-]~~ ; *and*

40 (2) *The results of the examination and testing must be*  
41 *made available to the insurer or employer upon request.*

42 3. No compensation is payable for the death, disability or  
43 treatment of an employee if the employee's death is caused by,  
44 or insofar as the employee's disability is aggravated, caused or  
45 continued by, an unreasonable refusal or neglect to submit to or to



1 follow any competent and reasonable surgical treatment or medical  
2 aid.

3 4. If any employee persists in an unsanitary or injurious  
4 practice that imperils or retards his or her recovery, or refuses to  
5 submit to such medical or surgical treatment as is necessary to  
6 promote his or her recovery, the employee's compensation may be  
7 reduced or suspended.

8 5. An injured employee's compensation ~~[- other than accident~~  
9 ~~benefits,]~~ must be suspended if ~~[-~~

10 ~~—(a) A]~~ a physician or chiropractor determines that the employee  
11 is unable to undergo treatment, testing or examination for the  
12 industrial injury solely because of a condition or injury that did not  
13 arise out of and in the course of employment ~~[-]~~ and

14 ~~[(b)] :~~

15 (a) It is within the ability of the employee to correct the  
16 nonindustrial condition or injury ~~[-]~~ ; or

17 (b) *If the condition or injury is a nonindustrial illness, the*  
18 *condition or injury interferes with the ability of the physician or*  
19 *chiropractor to treat, test or examine the employee.*

20 ↪ The compensation must be suspended until the injured employee  
21 is able to resume treatment, testing or examination for the industrial  
22 injury. The insurer may elect to pay for the treatment of the  
23 nonindustrial condition or injury.

24 6. *For the purposes of this section, "prohibited substance"*  
25 *has the meaning ascribed to it in NRS 484C.080.*

26 **Sec. 5.** NRS 616C.232 is hereby amended to read as follows:

27 616C.232 1. If an injured employee is discharged from his or  
28 her employment as a result of misconduct, an insurer may deny  
29 compensation for temporary total disability *and vocational*  
30 *rehabilitation services* to the injured employee because of that  
31 discharge for misconduct only if the insurer proves by a  
32 preponderance of the evidence that:

33 (a) The injured employee was discharged from his or her  
34 employment solely for the employee's misconduct and not for any  
35 reason relating to the employee's claim for compensation; and

36 (b) It is the injured employee's discharge from his or her  
37 employment for misconduct, and not the injury, that is the sole  
38 cause for the injured employee's inability to return to work with the  
39 preinjury employer.

40 2. ~~[-A-]~~ *If an injured employee voluntarily resigns from his or*  
41 *her employment as a result of misconduct, an* insurer ~~[-waives its~~  
42 ~~rights under subsection 1 if the insurer does not make a~~  
43 ~~determination to]~~ may deny ~~[-or suspend]~~ compensation *for*  
44 *temporary total disability and vocational rehabilitation services* to  
45 the injured employee . ~~[-within 70 days after the date on which the~~



~~insurer learns that the injured employee has been discharged for misconduct.]~~

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability *and vocational rehabilitation services* pursuant to ~~[subsection 1.] subsections 1 and 2.~~

4. Discharge *or voluntary resignation* from employment for reasons other than gross misconduct does not limit an injured employee's entitlement to receive benefits for temporary total disability.

**Sec. 6.** NRS 616C.235 is hereby amended to read as follows:

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, the claimant has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than \$300, the insurer may close the claim at any time after the insurer sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;



1 (b) The injured employee may appeal the closure of the claim  
2 pursuant to the provisions of NRS 616C.305 and 616C.315 to  
3 616C.385, inclusive; and

4 (c) If the injured employee does not appeal the closure of the  
5 claim or appeals the closure of the claim but is not successful, the  
6 claim cannot be reopened.

7 3. In addition to the notice described in subsection 2, an insurer  
8 shall send to each claimant who receives less than \$300 in medical  
9 benefits within 6 months after the claim is opened a written notice  
10 that explains the circumstances under which a claim may be closed  
11 pursuant to subsection 2. The written notice provided pursuant to  
12 this subsection does not create any right to appeal the contents of  
13 that notice. The written notice must be:

14 (a) Sent by first-class mail addressed to the last known address  
15 of the claimant; and

16 (b) A document that is separate from any other document or  
17 form that is used by the insurer.

18 4. The closure of a claim pursuant to subsection 2 is not  
19 effective unless notice is given as required by subsections 2 and 3.

20 5. In addition to the requirements of this section, an insurer  
21 shall include in the written notice described in subsection 2:

22 (a) If an evaluation for a permanent partial disability has been  
23 scheduled pursuant to NRS 616C.490, a statement to that effect; or

24 (b) If an evaluation for a permanent partial disability will not be  
25 scheduled pursuant to NRS 616C.490, a statement explaining that  
26 the reason is because the insurer has determined there is no  
27 possibility of a permanent impairment of any kind.

28 *6. An insurer may, at its sole discretion, authorize continued  
29 medication or services be provided to a claimant after a claim has  
30 been closed. A refusal of an insurer to authorize continued  
31 medication or services pursuant to this subsection may not be  
32 appealed.*

33 **Sec. 7.** NRS 616C.375 is hereby amended to read as follows:

34 616C.375 If an insurer, employer or claimant, or the  
35 representative of an insurer, employer or claimant, appeals the  
36 decision of an appeals officer, that decision is not stayed unless a  
37 *request for a stay is ~~granted by~~ submitted to* the appeals officer or  
38 the district court. *The decision of the appeals officer is stayed until  
39 the appeals officer or district court issues an order granting or  
40 denying the request for a stay. The appeals officer or district court  
41 shall issue an order granting or denying the request for a stay  
42 within 30 days after the date on which the ~~decision was rendered.~~  
43 request was submitted. If a request for a stay is denied, the parties  
44 shall comply with the decision of the appeals officer within 10  
45 days after the issuance of the order denying the request for a stay.*





1       **Sec. 8.** NRS 616C.390 is hereby amended to read as follows:  
2       616C.390 Except as otherwise provided in NRS 616C.392:

3       1. *An application to reopen the claim may be submitted to an*  
4 *insurer:*

5       (a) *Within 1 year after the closure of the claim if the claimant*  
6 *received a permanent partial disability rating of 5 percent or less;*

7       (b) *Within 3 years after the closure of the claim if the claimant*  
8 *received a permanent partial disability rating greater than 5*  
9 *percent but less than 10 percent; or*

10       (c) *Within 5 years after the closure of the claim if the claimant*  
11 *received a permanent partial disability rating of 10 percent or*  
12 *more.*

13       2. If an application to reopen a claim ~~[to increase or rearrange~~  
14 ~~compensation]~~ is made in writing ~~[more than 1 year after the date on~~  
15 ~~which the claim was closed,]~~ *in accordance with the provisions of*  
16 *subsection 1*, the insurer shall reopen the claim if:

17       (a) A change of circumstances warrants an increase ~~[or~~  
18 ~~rearrangement]~~ of compensation ; ~~[during the life of the claimant;]~~

19       (b) The primary cause of the change of circumstances is the  
20 injury for which the claim was originally made; and

21       (c) The application is accompanied by the certificate of a  
22 physician or a chiropractor showing a change of circumstances  
23 which would warrant an increase ~~[or—rearrangement]~~ of  
24 compensation.

25       ~~[2.]~~ 3. After a claim has been closed, the insurer, upon  
26 receiving an application *in accordance with the provisions of*  
27 *subsection 1*, and for good cause shown, may authorize the  
28 reopening of the claim for medical investigation only. The  
29 application must be accompanied by a written request for treatment  
30 from the physician or chiropractor treating the claimant, certifying  
31 that the treatment is indicated by a change in circumstances and is  
32 related to the industrial injury sustained by the claimant.

33       ~~[3.]~~ 4. If a claimant applies for a claim to be reopened pursuant  
34 to subsection 1 or ~~[2]~~ 3 and a final determination denying the  
35 reopening is issued, the claimant shall not reapply to reopen the  
36 claim until at least 1 year after the date on which the final  
37 determination is issued.

38       ~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6, if an  
39 application to reopen a claim is made in writing within 1 year after  
40 the date on which the claim was closed, the insurer shall reopen the  
41 claim only if:

42       (a) The application is supported by medical evidence  
43 demonstrating an objective change in the medical condition of the  
44 claimant; and



1 (b) There is clear and convincing evidence that the primary  
2 cause of the change of circumstances is the injury for which the  
3 claim was originally made.

4 ~~{5.}~~ 6. An application to reopen a claim must be made in  
5 writing within 1 year after the date on which the claim was closed if:

6 (a) The claimant ~~{was not off work}~~ *did not receive benefits for*  
7 *a temporary total disability* as a result of the injury; and

8 (b) The claimant did not receive benefits for a permanent partial  
9 disability.

10 ↪ If an application to reopen a claim to increase or rearrange  
11 compensation is made pursuant to this subsection, the insurer shall  
12 reopen the claim if the requirements set forth in paragraphs (a), (b)  
13 and (c) of subsection ~~{H}~~ 2 are met.

14 ~~{6.}~~ 7. If an employee's claim is reopened pursuant to this  
15 section, the employee is not entitled to vocational rehabilitation  
16 services or benefits for a temporary total disability if ~~{, before}~~ :

17 (a) *Before* the claim was reopened, the employee:

18 ~~{(a)}~~ (1) Retired; ~~{or}~~

19 ~~{(b)}~~ (2) Otherwise voluntarily removed himself or herself from  
20 the workforce ~~{;~~

21 ~~↪ for reasons unrelated to the injury for which the claim was~~  
22 ~~originally made.}; or~~

23 (3) *Was terminated for misconduct for reasons unrelated to*  
24 *the injury for which the claim was made; or*

25 (b) *The insurer or employer demonstrates that, before the*  
26 *claim was reopened, a physician determined that the employee was*  
27 *capable of engaging in temporary, modified employment and*  
28 *temporary, modified employment was available with the employer.*

29 ~~{7.}~~ 8. One year after the date on which the claim was closed,  
30 an insurer may dispose of the file of a claim authorized to be  
31 reopened pursuant to subsection ~~{5.}~~ 6, unless an application to  
32 reopen the claim has been filed pursuant to that subsection.

33 ~~{8.}~~ 9. An increase ~~{for rearrangement}~~ of compensation is not  
34 effective before an application for reopening a claim is made unless  
35 good cause is shown. The insurer shall, upon good cause shown,  
36 allow the cost of emergency treatment the necessity for which has  
37 been certified by a physician or a chiropractor.

38 ~~{9.}~~ 10. A claim that closes pursuant to subsection 2 of NRS  
39 616C.235 and is not appealed or is unsuccessfully appealed pursuant  
40 to the provisions of NRS 616C.305 and 616C.315 to 616C.385,  
41 inclusive, may not be reopened pursuant to this section.

42 ~~{10.}~~ 11. The provisions of this section apply to any claim for  
43 which an application to reopen the claim or to increase ~~{or~~  
44 ~~rearrange}~~ compensation is made pursuant to this section, regardless  
45 of the date of the injury or accident to the claimant. If a claim is



1 reopened pursuant to this section, the amount of any compensation  
2 or benefits provided must be determined in accordance with the  
3 provisions of NRS 616C.425.

4 **Sec. 9.** NRS 616C.392 is hereby amended to read as follows:

5 616C.392 1. An insurer shall reopen a claim to consider the  
6 payment of compensation for a permanent partial disability if:

7 (a) ~~[(The claim was closed and)]~~ *Within 1 year after the date on*  
8 *which the claim was closed, it is determined that* the claimant was  
9 not scheduled for an evaluation of the injury in accordance with  
10 NRS 616C.490;

11 (b) ~~[(The)]~~ *Within 1 year after the date on which the claim was*  
12 *closed, the* claimant demonstrates by a preponderance of the  
13 evidence that ~~[, at the time that the case was closed,]~~ the claimant  
14 was, because of the injury, qualified to be scheduled for an  
15 evaluation for a permanent partial disability; and

16 (c) The insurer has violated a provision of NRS 616D.120 with  
17 regard to the claim.

18 2. The demonstration required pursuant to paragraph (b) of  
19 subsection 1 must be made with documentation that existed at the  
20 time that the case was closed.

21 3. Notwithstanding any specific statutory provision to the  
22 contrary, the consideration of whether a claimant is entitled to  
23 payment of compensation for a permanent partial disability for a  
24 claim that is reopened pursuant to this section must be made in  
25 accordance with the provisions of the applicable statutory and  
26 regulatory provisions that existed on the date on which the claim  
27 was closed, including, without limitation, using the edition of the  
28 American Medical Association's Guides to the Evaluation of  
29 Permanent Impairment as adopted by the Division pursuant to NRS  
30 616C.110 that was applicable on the date the claim was closed.

31 **Sec. 10.** NRS 616C.440 is hereby amended to read as follows:

32 616C.440 1. Except as otherwise provided in this section and  
33 NRS 616C.175, every employee in the employ of an employer,  
34 within the provisions of chapters 616A to 616D, inclusive, of NRS,  
35 who is injured by accident arising out of and in the course of  
36 employment, or his or her dependents as defined in chapters 616A  
37 to 616D, inclusive, of NRS, is entitled to receive the following  
38 compensation for permanent total disability:

39 (a) In cases of total disability adjudged to be permanent,  
40 compensation per month of 66 2/3 percent of the average monthly  
41 wage.

42 (b) If there is a previous disability, as the loss of one eye, one  
43 hand, one foot or any other previous permanent disability, the  
44 percentage of disability for a subsequent injury must be determined  
45 by computing the percentage of the entire disability and deducting



1 therefrom the percentage of the previous disability as it existed at  
2 the time of the subsequent injury, but such a deduction for a  
3 previous award for permanent partial disability must be made in a  
4 reasonable manner and must not be more than the total amount  
5 which was paid for the previous award for permanent partial  
6 disability. The total amount of the allowable deduction includes,  
7 without limitation, compensation for a permanent partial disability  
8 that was deducted from:

9 (1) Any compensation the employee received for a  
10 temporary total disability; or

11 (2) Any other compensation received by the employee.

12 (c) If the character of the injury is such as to render the  
13 employee so physically helpless as to require the service of a  
14 constant attendant, an additional allowance may be made so long as  
15 such requirements continue, but the allowance may not be made  
16 while the employee is receiving benefits for care in a hospital or  
17 facility for intermediate care pursuant to the provisions of  
18 NRS 616C.265.

19 2. Except as otherwise provided in NRS 616B.028 and  
20 616B.029, an injured employee or his or her dependents are not  
21 entitled to accrue or be paid any benefits for a permanent total  
22 disability during the time the injured employee is incarcerated. The  
23 injured employee or his or her dependents are entitled to receive  
24 those benefits when the injured employee is released from  
25 incarceration if the injured employee is certified as permanently  
26 totally disabled by a physician or chiropractor.

27 3. An employee is entitled to receive compensation for a  
28 permanent total disability only so long as the permanent total  
29 disability continues to exist. The insurer has the burden of proving  
30 that the permanent total disability no longer exists.

31 4. If an employee who has received compensation in a lump  
32 sum for a permanent partial disability pursuant to NRS 616C.495 is  
33 subsequently determined to be permanently and totally disabled, the  
34 insurer of the employee's employer shall recover pursuant to this  
35 subsection the actual amount of the lump sum paid to the employee  
36 for the permanent partial disability. The insurer shall not recover  
37 from the employee, whether by deductions or single payment, or a  
38 combination of both, more than the actual amount of the lump sum  
39 paid to the employee. To recover the actual amount of the lump  
40 sum, the insurer shall:

41 (a) Unless the employee submits a request described in  
42 paragraph (b), deduct from the compensation for the permanent total  
43 disability an amount that is not more than 10 percent of the rate of  
44 compensation for a permanent total disability until the actual



1 amount of the lump sum paid to the employee for the permanent  
2 partial disability is recovered; or

3 (b) Upon the request of the employee, accept in a single  
4 payment from the employee an amount that is equal to the actual  
5 amount of the lump sum paid to the employee for the permanent  
6 partial disability, less the actual amount of all deductions made to  
7 date by the insurer from the employee for repayment of the lump  
8 sum.

9 *5. Except as otherwise provided in this subsection, if an  
10 employee who has received compensation in a lump sum for  
11 vocational rehabilitation services pursuant to NRS 616C.595 is  
12 subsequently determined to be permanently and totally disabled,  
13 the insurer of the employee's employer shall recover pursuant to  
14 this section the actual amount of the lump sum paid to the  
15 employee for the vocational and rehabilitation services.  
16 The insurer shall not recover from the employee any amount  
17 which the employee demonstrates he or she expended or attempted  
18 to spend to obtain vocational rehabilitation services. The insurer  
19 shall not recover from the employee, whether by deductions or  
20 single payment, or a combination of both, more than the actual  
21 amount of the lump sum paid to the employee. To recover the  
22 actual amount of the lump sum, the insurer shall:*

23 *(a) Unless the employee submits a request described in  
24 paragraph (b), deduct from the compensation for the permanent  
25 total disability an amount that is not more than 10 percent of the  
26 rate of compensation for a permanent total disability until  
27 the actual amount of the lump sum paid to the employee for the  
28 vocational rehabilitation services is recovered; or*

29 *(b) Upon the request of the employee, accept in a single  
30 payment from the employee an amount that is equal to the actual  
31 amount of the lump sum paid to the employee for the vocational  
32 rehabilitation services, less the actual amount of all deductions  
33 made to date by the insurer from the employee for repayment of  
34 the lump sum.*

35 **Sec. 11.** NRS 616C.475 is hereby amended to read as follows:

36 616C.475 1. Except as otherwise provided in this section,  
37 NRS 616C.175 and 616C.390, every employee in the employ of an  
38 employer, within the provisions of chapters 616A to 616D,  
39 inclusive, of NRS, who is injured by accident arising out of and in  
40 the course of employment, or his or her dependents, is entitled to  
41 receive for the period of temporary total disability, 66 2/3 percent of  
42 the average monthly wage.

43 2. Except as otherwise provided in NRS 616B.028 and  
44 616B.029, an injured employee or his or her dependents are not  
45 entitled to accrue or be paid any benefits for a temporary total



1 disability during the time the injured employee is incarcerated. The  
2 injured employee or his or her dependents are entitled to receive  
3 such benefits when the injured employee is released from  
4 incarceration if the injured employee is certified as temporarily  
5 totally disabled by a physician or chiropractor.

6 3. If a claim for the period of temporary total disability is  
7 allowed, the first payment pursuant to this section must be issued by  
8 the insurer within 14 working days after receipt of the initial  
9 certification of disability and regularly thereafter.

10 4. Any increase in compensation and benefits effected by the  
11 amendment of subsection 1 is not retroactive.

12 5. Payments for a temporary total disability must cease when:

13 (a) A physician or chiropractor determines that the employee is  
14 physically capable of ~~[any gainful]~~ *returning to* employment ~~[for~~  
15 ~~which the employee is suited, after giving consideration to the~~  
16 ~~employee's education, training and experience:]~~ *in the employee's*  
17 *preinjury occupation;*

18 (b) The employer offers the employee ~~[light-duty employment~~  
19 ~~or]~~ employment that is modified , *temporarily or permanently,*  
20 according to the limitations or restrictions imposed by a physician or  
21 chiropractor pursuant to subsection 7; or

22 (c) Except as otherwise provided in NRS 616B.028 and  
23 616B.029, the employee is incarcerated.

24 6. Each insurer may, with each check that it issues to an injured  
25 employee for a temporary total disability, include a form approved  
26 by the Division for the injured employee to request continued  
27 compensation for the temporary total disability.

28 7. A certification of disability issued by a physician or  
29 chiropractor must:

30 (a) Include the period of disability and a description of any  
31 physical limitations or restrictions imposed upon ~~[the work of]~~ the  
32 employee;

33 (b) Specify whether the limitations or restrictions are permanent  
34 or temporary; and

35 (c) Be signed by the treating physician or chiropractor  
36 authorized pursuant to NRS 616B.527 or appropriately chosen  
37 pursuant to subsection 3 or 4 of NRS 616C.090.

38 8. If the certification of disability specifies that the physical  
39 limitations or restrictions are temporary, the employer of the  
40 employee at the time of the employee's accident may offer  
41 temporary, light-duty employment to the employee. *An offer of*  
42 *temporary, light-duty employment pursuant to this subsection may*  
43 *be effective as soon as the next scheduled work shift.* If the  
44 employer makes such an offer, the employer shall confirm the offer  
45 in writing within 10 days after making the offer. The making,



1 acceptance or rejection of an offer of temporary, light-duty  
2 employment pursuant to this subsection does not affect the  
3 eligibility of the employee to receive vocational rehabilitation  
4 services, including compensation, and does not exempt the  
5 employer from complying with NRS 616C.545 to 616C.575,  
6 inclusive, and 616C.590 or the regulations adopted by the Division  
7 governing vocational rehabilitation services. Any offer of  
8 temporary, light-duty employment made by the employer must  
9 specify a position that:

10 (a) Is substantially similar to the employee's position at the time  
11 of his or her injury in relation to the location of the employment and  
12 the ~~[hours]~~ *shift schedule* the employee is required to work. ~~[;]~~

13 (b) Provides a gross wage that is:

14 (1) If the position is in the same classification of employment  
15 ~~[;]~~ *and the physical limitations or restrictions specified are within*  
16 *the physical requirements of the employee's employment*, equal to  
17 the gross wage the employee was earning at the time of his or her  
18 injury; or

19 (2) If the position is not in the same classification of  
20 employment, substantially similar to the gross wage ~~[the]~~ *payable to*  
21 *an employee* ~~[was earning at the time of his or her injury; and]~~  
22 *within the same classification of employment. If the gross wage*  
23 *earned is less than the employee would be entitled to receive for a*  
24 *temporary total disability, the employee is entitled to receive*  
25 *benefits for a temporary partial disability pursuant to*  
26 *NRS 616C.500.*

27 (c) Has the same employment benefits as the position of the  
28 employee at the time of his or her injury ~~[;]~~ *, subject to any*  
29 *minimum requirements established by an independent provider of*  
30 *benefits.*

31 **Sec. 12.** NRS 616C.570 is hereby amended to read as follows:

32 616C.570 1. A plan for a program of vocational rehabilitation  
33 developed pursuant to NRS 616C.555 may include a program for  
34 on-the-job training, if the training is suitable for the injured  
35 employee.

36 2. Before an injured employee may participate in a program for  
37 on-the-job training, the insurer and the employer *providing the*  
38 *training* must execute a written agreement which contains *the cost,*  
39 *the schedule and* an explanation of the ~~[training and a schedule for~~  
40 ~~that]~~ training.

41 3. ~~[Except as otherwise provided in subsection 4, the]~~ *The*  
42 insurer may pay ~~[not more than 50 percent of the wages of]~~  
43 *temporary partial disability benefits to* an injured employee who is  
44 participating in a program for on-the-job training. ~~[An insurer~~  
45 ~~contributing toward the wages of an injured employee shall pay the~~



~~1 employee within 10 days after the employee submits documentation  
2 of his or her payroll to the insurer. The insurer shall not contribute  
3 to the wages of the injured employee for more than the period  
4 authorized for the particular employee pursuant to subsection 3 of  
5 NRS 616C.555 or 616C.560.~~

~~6 — 4. The insurer shall, within 30 days after receipt of a request  
7 for payment, reimburse the training employer for the wages paid by  
8 the training employer to the injured employee pursuant to this  
9 section if:~~

~~10 — (a) After the successful completion of the training, the training  
11 employer continues to employ the injured employee for at least 90  
12 days in a position which requires the training so obtained; or~~

~~13 — (b) The injured employee:~~

~~14 — (1) Within 30 days after his or her successful completion of  
15 the training, obtains employment which requires the skills obtained  
16 by him or her as a direct result of the training provided by the  
17 training employer; and~~

~~18 — (2) Retains that or similar employment for at least 6 months  
19 after the completion of the training.]~~

**Sec. 13.** NRS 616C.595 is hereby amended to read as follows:

21 616C.595 1. If an injured employee is eligible for vocational  
22 rehabilitation services pursuant to NRS 616C.590, the insurer and  
23 the injured employee may, at any time during the employee's  
24 eligibility for such services, execute a written agreement providing  
25 for the payment of compensation in a lump sum in lieu of the  
26 provision of vocational rehabilitation services. An insurer's refusal  
27 to execute such an agreement may not be appealed.

28 2. If the insurer and the injured employee execute an agreement  
29 pursuant to subsection 1, the acceptance of the payment of  
30 compensation in a lump sum by the injured employee extinguishes  
31 the right of the injured employee to receive vocational rehabilitation  
32 services under the injured employee's claim. Except as otherwise  
33 required by federal law, an injured employee shall not receive  
34 vocational rehabilitation services from any state agency after the  
35 injured employee accepts payment of compensation in a lump sum  
36 pursuant to this section.

37 3. Before executing an agreement pursuant to subsection 1, an  
38 insurer shall:

39 (a) Order an assessment of and counseling concerning the  
40 vocational skills of the injured employee, unless the provisions of  
41 subsection 3 of NRS 616C.580 are applicable;

42 (b) Consult with the employer of the injured employee; and

43 (c) Provide a written notice to the injured employee that  
44 contains the following statements:





1 (1) That the injured employee is urged to seek assistance and  
2 advice from the Nevada Attorney for Injured Workers or to consult  
3 with a private attorney before signing the agreement.

4 (2) That the injured employee may rescind the agreement  
5 within 20 days after the injured employee signs it.

6 (3) That the 20-day period pursuant to subparagraph (2) may  
7 not be waived.

8 (4) That acceptance by the injured employee of payment of  
9 compensation in a lump sum in lieu of the provision of vocational  
10 rehabilitation services extinguishes the right of the injured employee  
11 to receive such services.

12 4. Except as otherwise provided in NRS 616C.580, any  
13 payment of compensation in a lump sum in lieu of the provision of  
14 vocational rehabilitation services must not be less than 40 percent of  
15 the maximum amount of vocational rehabilitation maintenance due  
16 to the injured employee pursuant to NRS 616C.555.

17 5. No payment of compensation in a lump sum may be made  
18 pursuant to this section until the 20-day period provided for the  
19 rescission of the agreement has expired.

20 *6. If, after execution of a written agreement pursuant to*  
21 *subsection 1, a claim is reopened pursuant to NRS 616C.390 and a*  
22 *physician has determined that the injured employee is capable of*  
23 *engaging in temporary, modified employment, the injured*  
24 *employee is not entitled to benefits for a temporary total disability*  
25 *unless:*

26 *(a) The injured employee provides the insurer with*  
27 *documentation which:*

28 *(1) Substantiates that the injured employee has been*  
29 *retrained in an occupation;*

30 *(2) Sets forth the physical requirements of the occupation;*  
31 *and*

32 *(3) Provides that the physician's determination that the*  
33 *injured employee is capable of engaging in temporary, modified*  
34 *employment does not authorize the injured employee to return to*  
35 *the occupation for which the injured employee was retrained; or*

36 *(b) The injured employee provides the insurer with*  
37 *documentation which:*

38 *(1) Substantiates that the injured employee returned to*  
39 *gainful employment;*

40 *(2) Sets forth the physical requirements of the new*  
41 *employment; and*

42 *(3) Provides that the physician's determination that the*  
43 *injured employee is capable of engaging in temporary, modified*  
44 *employment does not authorize the injured employee to return to*  
45 *work in the new employment.*



1       **Sec. 14.** This act becomes effective upon passage and approval  
2 for the purposes of adopting regulations and performing any other  
3 preparatory administrative tasks that are necessary to carry out this  
4 act, and on October 1, 2015, for all other purposes.

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