

Senate Bill No. 295–Senator Cannizzaro

CHAPTER.....

AN ACT relating to industrial insurance; prohibiting the termination or limitation of compensation paid to certain injured employees for a permanent total disability on the basis that the injured employee earns income; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that an injured employee is entitled to receive compensation for a permanent total disability only so long as the permanent total disability continues to exist. (NRS 616C.440) Existing law authorizes certain injured employees who are or were firefighters, arson investigators, police officers or emergency medical attendants and who are partially disabled from certain occupational diseases to elect to receive such compensation for a permanent total disability. (NRS 617.455, 617.457, 617.485, 617.487) **Section 2** of this bill prohibits an insurer from halting or limiting the payment of compensation to such an injured employee for a permanent total disability on the basis that the injured employee earns income. **Section 1** of this bill makes a conforming change to a reference to reflect a change in numbering made by **section 2**.

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

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

Section 1. NRS 616C.405 is hereby amended to read as follows:

616C.405 Except as otherwise provided in subsection ~~4~~ 5 of NRS 616C.440, an employee who is receiving compensation for:

1. A permanent total disability is not entitled to compensation for permanent partial disability during the period when the employee is receiving compensation for the permanent total disability.

2. A temporary total disability is not entitled to compensation for a permanent partial disability during the period of temporary total disability.

3. A temporary partial disability is not entitled to compensation for a permanent partial disability during the period of temporary partial disability.

Sec. 2. NRS 616C.440 is hereby amended to read as follows:

616C.440 1. Except as otherwise provided in this section and NRS 616C.175, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of



employment, or his or her dependents as defined in chapters 616A to 616D, inclusive, of NRS, is entitled to receive the following compensation for permanent total disability:

(a) In cases of total disability adjudged to be permanent, compensation per month of $66 \frac{2}{3}$ percent of the average monthly wage.

(b) If there is a previous disability, as the loss of one eye, one hand, one foot or any other previous permanent disability, the percentage of disability for a subsequent injury must be determined by computing the percentage of the entire disability and deducting therefrom the percentage of the previous disability as it existed at the time of the subsequent injury, but such a deduction for a previous award for permanent partial disability must be made in a reasonable manner and must not be more than the total amount which was paid for the previous award for permanent partial disability. The total amount of the allowable deduction includes, without limitation, compensation for a permanent partial disability that was deducted from:

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

(2) Any other compensation received by the employee.

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

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

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

4. *If an injured employee has filed a claim with an insurer pursuant to NRS 617.455, 617.457, 617.485 or 617.487, the insurer may not terminate, suspend, withhold, offset, reduce or*



otherwise halt, restrict or limit the payment of compensation for a permanent total disability to the injured employee or his or her dependents on the basis that the injured employee earns income.

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

(a) Unless the employee submits a request described in paragraph (b), deduct from the compensation for the permanent total disability an amount that is not more than 10 percent of the rate of compensation for a permanent total disability until the actual amount of the lump sum paid to the employee for the permanent partial disability is recovered; or

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

