

HOUSE BILL NO. HB0053

Workers' compensation-temporary light duty amendments.

Sponsored by: Joint Labor, Health and Social Services Interim Committee

A BILL

for

1 AN ACT relating to workers' compensation; amending
2 temporary light duty award; amending temporary light duty
3 requirements; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 27-14-403(a)(i) and (c)(intro) and
8 27-14-404(j) are amended to read:

9

10 **27-14-403. Awards generally; method of payment.**

11

12 (a) In addition to payment of medical and hospital
13 care and artificial replacement, an injured employee and
14 his dependents may be entitled to one (1) or more awards
15 for:

16

1 (i) Temporary total disability or temporary
2 light duty;

3
4 (c) All awards stated in ~~subsection (a) of~~ this
5 section except awards under ~~subsections~~ paragraph (a)(i),
6 subsection (b), and paragraphs (e)(ii), (iv) and (v) and
7 (h)(ii) of this section shall be paid monthly at the rates
8 prescribed by this subsection. For permanent partial
9 impairment under paragraph (a)(ii) of this section, the
10 award shall be paid monthly at the rate of two-thirds (2/3)
11 of the statewide average monthly wage for the twelve (12)
12 month period immediately preceding the quarterly period in
13 which the injury occurred as determined pursuant to W.S.
14 27-14-802. For temporary total disability under paragraph
15 (a)(i) of this section, the award shall be paid monthly at
16 the rate of two-thirds (2/3) of the injured employee's
17 actual monthly earnings at the time of injury but not to
18 exceed the statewide average monthly wage for the twelve
19 (12) month period immediately preceding the quarterly
20 period in which the injury occurred as determined pursuant
21 to W.S. 27-14-802. For temporary light duty under
22 paragraph (a)(i) of this section, the award shall be paid
23 monthly at the rate of eighty percent (80%) of the
24 difference between the employee's light duty wage and the

1 employee's actual monthly earnings at the time of injury.

2 For permanent partial and permanent total disability or
3 death under paragraphs (a)(iii), (iv) and (v) of this
4 section, the award shall be paid monthly computed as
5 follows:

6
7 **27-14-404. Temporary total disability; benefits;**
8 **determination of eligibility; exceptions for volunteers or**
9 **prisoners; period of certification limited; temporary light**
10 **duty employment.**

11
12 (j) An employer may make a written offer of temporary
13 light duty work to an employee receiving temporary total
14 disability under subsection (a) of this section. The offer
15 shall be a bona fide offer on a form supplied by the
16 division, ~~stating with specificity the proposed hours of~~
17 ~~employment, starting date, wage and functional capacity~~
18 ~~requirements of the light duty work.~~ If the employee
19 accepts the offer, the temporary total disability award
20 ~~calculated pursuant to W.S. 27-14-403(c) shall be reduced~~
21 ~~by two-thirds (2/3) and the balance of the award shall not~~
22 ~~be charged to the employer's experience rating.~~ If the
23 ~~employee refuses light duty work offered under this~~
24 ~~subsection, the award shall be reduced by two-thirds (2/3)~~

1 ~~of the temporary total disability award calculated pursuant~~
2 ~~to W.S. 27-14-403(c) and the balance of the award shall not~~
3 ~~be charged to the employer's experience rating~~ shall cease
4 and the employee shall receive a temporary light duty
5 award, subject to the following terms and conditions:

6
7 (i) The health care provider who certified
8 temporary total disability ~~or any other health care~~
9 ~~provider who physically examined the employee certifies,~~
10 ~~following review of the written work offer, that the~~
11 ~~offered~~ has certified on the light duty work agreement that
12 the employee is released to perform the light duty work ~~is~~
13 ~~not expected to unreasonably endanger the employee or~~
14 ~~unreasonably hinder the employee's recovery~~ described in
15 the agreement;

16
17 (ii) ~~The~~ All periods of light duty work
18 ~~assignment is not greater than the time period prescribed~~
19 ~~under subsection (c) of this section~~ may not exceed six (6)
20 months cumulatively for any one (1) injury;

21
22 (iii) The ~~reduction in the temporary total~~
23 ~~disability award~~ temporary light duty assignment commences

1 not less than fourteen (14) days following the written
2 offer;

3
4 (iv) ~~The wage paid to the employee for~~ Payment
5 of the temporary light duty ~~work is at least two-thirds~~
6 ~~(2/3) of the employee's regular wage rate~~ award shall cease
7 as provided for temporary total disability under subsection
8 (c) of this section or if the employee's actual monthly
9 earnings from all sources when combined with the temporary
10 light duty award exceed ninety-five percent (95%) of the
11 employee's actual monthly earnings at the time of injury;

12
13 (v) ~~Upon request of~~ The employer, ~~there has been~~
14 ~~a final administrative determination, based upon competent~~
15 ~~medical evidence, that the offered~~ shall provide the
16 division before commencement of the light duty work ~~is not~~
17 ~~likely to unreasonably endanger the employee or~~
18 ~~unreasonably hinder the employee's recovery. Any~~
19 ~~determination and any review of a determination under this~~
20 ~~paragraph shall be in accordance with W.S. 27-14-601 and~~
21 ~~27-14-602. In any hearing held pursuant to W.S. 27-14-602~~
22 ~~for purposes of this paragraph, the employee shall have the~~
23 ~~burden of proving that the offered light duty work is~~
24 ~~likely to unreasonably endanger the employee or~~

1 ~~unreasonably hinder the employee's recovery~~ with a copy of
2 the light duty work agreement signed by the employer and
3 the employee, and shall report to the division by the
4 fifteenth of each month the employee's hours and rate of
5 pay for the previous month; and

6
7 (vi) The ~~employee has not refused the light duty~~
8 ~~work pursuant to this paragraph.~~ temporary total disability
9 award of any employee ~~tendered~~ refusing a bona fide written
10 offer of temporary light duty work pursuant to this
11 subsection ~~may refuse the light duty work offered if~~ shall
12 be reduced by two-thirds (2/3) unless the employee provides
13 written proof to the employer and the division of
14 enrollment by the employee in any collegiate, vocational
15 retraining, general education development or other program
16 approved by the division which is designed to retrain the
17 employee for employment in an occupation other than that
18 previously offered by the employer.

19
20 **Section 2.** This act is effective July 1, 2004.

21
22 (END)