

Succeeded By  
SF/HF 2200

SSB 3117

Business + Labor

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
BUSINESS AND LABOR  
RELATIONS BILL BY  
CHAIRPERSON FREEMAN)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to an employer's liability for the payment of  
2 workers' compensation benefits to an employee for a permanent  
3 partial disability or a permanent total disability based in  
4 part upon a preexisting injury or recovery of benefits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

1 Section 1. Section 85.34, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7. APPORTIONMENT. Compensation for a  
4 permanent partial disability or a permanent total disability  
5 which would otherwise be payable pursuant to this section  
6 shall be reduced as provided in this subsection as follows:

7 a. If an employee has a preexisting functional loss under  
8 subsection 2, paragraphs "a" through "t", or a preexisting  
9 industrial disability under subsection 2, paragraph "u", which  
10 is medically quantifiable, the preexisting functional loss or  
11 industrial disability shall be apportioned and the employer  
12 shall not be liable for that preexisting loss or disability  
13 with respect to claims for a permanent partial disability  
14 resulting from subsequent injures which result in an increase  
15 in the permanent impairment to the same member or an increase  
16 in industrial disability with respect to any condition  
17 affecting employability. However, the apportionment  
18 authorized by this paragraph shall not apply if the  
19 preexisting functional loss or preexisting industrial  
20 disability was the product of a work injury with the same  
21 employer and the employee did not recover benefits pursuant to  
22 this chapter for that preexisting functional loss or  
23 preexisting industrial disability.

24 b. If an employee has received a benefit under this  
25 chapter, chapter 85A, or chapter 85B, for a previous injury to  
26 a portion of the body as described in subsection 2, the  
27 employer shall not be liable for the amount representing the  
28 applicable previous payment with respect to claims for a  
29 permanent partial disability or a permanent total disability  
30 resulting from subsequent injuries to the same portion of the  
31 body. For purposes of this paragraph, the applicable previous  
32 payment is the percentage of disability that resulted from the  
33 previous injury for which compensation was received under this  
34 chapter, chapter 85A, or chapter 85B, or the dollar amount  
35 received in a contested case settlement under section 85.35

2117

1 that was not paid by the employee for medical care.

- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

EXPLANATION

This bill provides that an employer's liability for workers' compensation benefits for a permanent partial disability shall be reduced to the extent that a portion of the resulting disability preexisted the work-related injury, and was not the product of a work-related injury with the same employer, or has already been compensated for under workers' compensation. In addition, the bill provides that an employer's liability for a permanent total disability shall be reduced to the extent that a portion of the resulting disability has already been compensated for under workers' compensation.

REPRINTED

FILED FEB 15 2002

SENATE FILE 2200  
BY COMMITTEE ON BUSINESS AND  
LABOR RELATIONS

(SUCCESSOR TO SSB 3117)

Passed Senate, <sup>(p. 588)</sup> Date 3-12-02 Passed House, Date \_\_\_\_\_  
Vote: Ayes 26 Nays 21 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to an employer's liability for the payment of  
2 workers' compensation benefits to an employee for a permanent  
3 partial disability or a permanent total disability based in  
4 part upon a preexisting injury or recovery of benefits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

SF 2200

1 Section 1. Section 85.34, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7. APPORTIONMENT. Compensation for a  
4 permanent partial disability or a permanent total disability  
5 which would otherwise be payable pursuant to this section  
6 shall be reduced as provided in this subsection as follows:

7 a. If an employee has a preexisting functional loss under  
8 subsection 2, paragraphs "a" through "t", or a preexisting  
9 industrial disability under subsection 2, paragraph "u", which  
10 is medically quantifiable, the preexisting functional loss or  
11 industrial disability shall be apportioned and the employer  
12 shall not be liable for that preexisting loss or disability  
13 with respect to claims for a permanent partial disability  
14 resulting from subsequent injuries which result in an increase  
15 in the permanent impairment to the same member or an increase  
16 in industrial disability with respect to any condition  
17 affecting employability. However, the apportionment  
18 authorized by this paragraph shall not apply if the  
19 preexisting functional loss or preexisting industrial  
20 disability was the product of a work injury with the same  
21 employer and the employee did not recover benefits pursuant to  
22 this chapter for that preexisting functional loss or  
23 preexisting industrial disability.

24 b. If an employee has received a benefit under this  
25 chapter, chapter 85A, or chapter 85B, for a previous injury to  
26 a portion of the body as described in subsection 2, the  
27 employer shall not be liable for the amount representing the  
28 applicable previous payment with respect to claims for a  
29 permanent partial disability or a permanent total disability  
30 resulting from subsequent injuries to the same portion of the  
31 body. For purposes of this paragraph, the applicable previous  
32 payment is the percentage of disability that resulted from the  
33 previous injury for which compensation was received under this  
34 chapter, chapter 85A, or chapter 85B, or the dollar amount  
35 received in a contested case settlement under section 85.35

1 that was not paid by the employee for medical care.

2 EXPLANATION

3 This bill provides that an employer's liability for  
4 workers' compensation benefits for a permanent partial  
5 disability shall be reduced to the extent that a portion of  
6 the resulting disability preexisted the work-related injury,  
7 and was not the product of a work-related injury with the same  
8 employer, or has already been compensated for under workers'  
9 compensation. In addition, the bill provides that an  
10 employer's liability for a permanent total disability shall be  
11 reduced to the extent that a portion of the resulting  
12 disability has already been compensated for under workers'  
13 compensation.

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

5

SENATE FILE 2200

S-5147

1 Amend Senate File 2200 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Sec. \_\_\_\_ . Section 85.34, subsection 2, paragraph  
5 u, unnumbered paragraph 1, Code 2001, is amended to  
6 read as follows:

7 In all cases of permanent partial disability other  
8 than those ~~hereinabove~~ described or referred to in  
9 paragraphs "a" through "t" ~~hereof~~, the compensation  
10 shall be paid during the number of weeks in relation  
11 to five hundred the life expectancy of the injured  
12 employee in weeks as the disability bears to the body  
13 of the injured employee as a whole. For purposes of  
14 this paragraph, "life expectancy of the injured  
15 employee" shall be determined pursuant to the life  
16 expectancy table adopted by the workers' compensation  
17 division for use in commutation proceedings.

18 Sec. \_\_\_\_ . Section 85.34, Code 2001, is amended by  
19 adding the following new subsection:

20 NEW SUBSECTION. 7. PERMANENT PARTIAL DISABILITY  
21 -- REDUCTION FOR PREVIOUS BENEFIT PAYMENTS.

22 If an employee receives a personal injury for which  
23 permanent partial disability benefits are payable, and  
24 that employee has already received permanent partial  
25 disability benefits as a result of a previous personal  
26 injury, the extent of that employee's entitlement to  
27 permanent partial disability benefits may be subject  
28 to a reduction as follows:

29 a. If the employee was previously paid permanent  
30 partial disability benefits for a functional  
31 disability confined to a scheduled member pursuant to  
32 subsection 2, paragraphs "a" through "t", and that  
33 employee sustains a subsequent injury to the same  
34 scheduled member, the extent of that employee's  
35 entitlement to permanent partial disability benefits  
36 may be reduced as a result of the previous payment if,  
37 at the time of the employee's most recent injury, the  
38 previous injury was still independently causing an  
39 ascertainable percentage of functional disability.

40 b. If the employee was previously paid permanent  
41 partial disability benefits for an industrial  
42 disability pursuant to subsection 2, paragraph "u",  
43 and that employee sustains a subsequent injury which  
44 would entitle that employee to permanent partial  
45 disability benefits pursuant to subsection 2,  
46 paragraph "u", the extent of that employee's  
47 entitlement to permanent partial disability benefits  
48 may be reduced as a result of the previous payment if,  
49 at the time of the employee's most recent injury, the  
50 previous injury was still independently causing an

S-5147

**S-5147**

Page 2

- 1 ascertainable percentage of industrial disability.
- 2 The reduction permitted by this paragraph shall not
- 3 exceed the percentage of industrial disability
- 4 previously paid which can be independently attributed
- 5 to the previous injury.
- 6 c. The employer shall have the burden of proving
- 7 any reduction permitted by this subsection."
- 8 2. Title page, by striking lines 3 and 4 and
- 9 inserting the following: "partial disability."
- 10 3. By renumbering as necessary.

**By** THOMAS FIEGEN**S-5147** FILED MARCH 12, 2002

LOST

(p.586)

**SENATE FILE 2200****S-5148**

- 1 Amend Senate File 2200 as follows:
- 2 1. Page 1, line 4, by striking the words "or a
- 3 permanent total disability".
- 4 2. Page 1, lines 9 and 10, by striking the words
- 5 "which is medically quantifiable,".
- 6 3. Page 1, line 29, by striking the words "or a
- 7 permanent total disability".
- 8 4. Title page, line 3, by striking the words "or
- 9 a permanent total disability".

**By** JERRY BEHN**S-5148** FILED MARCH 12, 2002

ADOPTED

(p.587)

**SENATE FILE 2200****S-5149**

- 1 Amend Senate File 2200 as follows:
- 2 1. Page 2, by inserting after line 1 the
- 3 following:
- 4 "If compensation is reduced pursuant to an
- 5 apportionment as provided in this subsection, any
- 6 reduction in liability to an employer shall be passed
- 7 on to the employer and not the workers' compensation
- 8 insurer for the employer."

**By** DICK L. DEARDEN**S-5149** FILED MARCH 12, 2002

LOST

(p.587)

H - 3/13/02 Labor

SENATE FILE **2200**  
BY COMMITTEE ON BUSINESS AND  
LABOR RELATIONS

(SUCCESSOR TO SSB 3117)

(AS AMENDED AND PASSED BY THE SENATE MARCH 12, 2002)

\* - Language Stricken by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to an employer's liability for the payment of  
2 workers' compensation benefits to an employee for a permanent  
3 partial disability based in part upon a preexisting injury or  
4 recovery of benefits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

S.F. 2200

1 Section 1. Section 85.34, Code 2001, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 7. APPORTIONMENT. Compensation for a  
\*4 permanent partial disability which would otherwise be payable  
5 pursuant to this section shall be reduced as provided in this  
6 subsection as follows:

7 a. If an employee has a preexisting functional loss under  
8 subsection 2, paragraphs "a" through "t", or a preexisting  
\*9 industrial disability under subsection 2, paragraph "u", the  
10 preexisting functional loss or industrial disability shall be  
11 apportioned and the employer shall not be liable for that  
12 preexisting loss or disability with respect to claims for a  
13 permanent partial disability resulting from subsequent  
14 injuries which result in an increase in the permanent  
15 impairment to the same member or an increase in industrial  
16 disability with respect to any condition affecting  
17 employability. However, the apportionment authorized by this  
18 paragraph shall not apply if the preexisting functional loss  
19 or preexisting industrial disability was the product of a work  
20 injury with the same employer and the employee did not recover  
21 benefits pursuant to this chapter for that preexisting  
22 functional loss or preexisting industrial disability.

23 b. If an employee has received a benefit under this  
24 chapter, chapter 85A, or chapter 85B, for a previous injury to  
25 a portion of the body as described in subsection 2, the  
26 employer shall not be liable for the amount representing the  
27 applicable previous payment with respect to claims for a  
\*28 permanent partial disability resulting from subsequent  
29 injuries to the same portion of the body. For purposes of  
30 this paragraph, the applicable previous payment is the  
31 percentage of disability that resulted from the previous  
32 injury for which compensation was received under this chapter,  
33 chapter 85A, or chapter 85B, or the dollar amount received in  
34 a contested case settlement under section 85.35 that was not  
35 paid by the employee for medical care.