

House File 346 - Introduced

HOUSE FILE 346

BY HUNTER

A BILL FOR

1 An Act requiring additional workers' compensation payments for
2 scheduled injuries that result in a reduction in the injured
3 employee's earning capacity.

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

1 Section 1. Section 85.34, subsection 2, Code 2011, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *w.* If an employee sustains an injury
4 described in paragraphs "a" through "t" and is unable to return
5 to employment providing substantially similar earnings to the
6 earnings provided in the employment in which the employee was
7 engaged at the time of the injury, compensation shall be paid
8 during the number of weeks in relation to five hundred weeks
9 as the reduction in the employee's earning capacity bears in
10 relation to the earning capacity that the employee possessed
11 when the injury occurred. If the employee is permanently and
12 totally disabled as a result of such an injury the employee may
13 be entitled to benefits under subsection 3.

14 Sec. 2. Section 85.64, Code 2011, is amended to read as
15 follows:

16 **85.64 Limitation of benefits.**

17 1. If an employee who has previously lost, or lost the
18 use of, one hand, one arm, one foot, one leg, or one eye,
19 becomes permanently disabled by a compensable injury which
20 has resulted in the loss of or loss of use of another such
21 member or organ and which does not cause the employee to be
22 eligible for benefits under section 85.34, subsection 2,
23 paragraph "w", the employer shall be liable only for the degree
24 of disability which would have resulted from the latter injury
25 if there had been no preexisting disability. In addition to
26 such compensation, and after the expiration of the full period
27 provided by law for the payments thereof by the employer, the
28 employee shall be paid out of the "*Second Injury Fund*" created
29 by this division the remainder of such compensation as would be
30 payable for the degree of permanent disability involved after
31 first deducting from such remainder the compensable value of
32 the previously lost member or organ.

33 2. Any benefits received by any such employee, or to which
34 the employee may be entitled, by reason of such increased
35 disability from any state or federal fund or agency, to which

1 said employee has not directly contributed, shall be regarded
2 as a credit to any award made against said second injury fund
3 as aforesaid.

4

EXPLANATION

5 This bill amends Code section 85.34 to provide that
6 for purposes of workers' compensation, an employee who
7 sustains a scheduled injury and is unable to return to
8 employment providing substantially similar earnings to that
9 of the preinjury employment earning capacity, shall be paid
10 compensation during the number of weeks in relation to 500
11 weeks as the reduction in the employee's earning capacity
12 caused by the disability bears in relation to the earning
13 capacity that the employee possessed when the injury occurred.

14 The bill also amends Code section 85.64 to provide that an
15 employee who has previously sustained a loss of a body part and
16 then becomes permanently disabled when that injury is combined
17 with a second compensable injury is entitled to compensation
18 out of the state second injury fund as long as that second
19 compensable injury alone does not cause the employee to be
20 unable to return to substantially similar employment and thus
21 be eligible for benefits under the new paragraph "w" in Code
22 section 85.34(2).