

Senate Study Bill 3257

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
LABOR AND BUSINESS
RELATIONS BILL BY
CHAIRPERSON DEARDEN)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the imposition of penalty benefits in workers'
2 compensation cases.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6540XC 82
5 av/nh/8

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1 1 Section 1. Section 86.13, Code 2007, is amended to read as
1 2 follows:

1 3 86.13 COMPENSATION PAYMENTS.

1 4 1. If an employer or insurance carrier pays weekly
1 5 compensation benefits to an employee, the employer or
1 6 insurance carrier shall file with the workers' compensation
1 7 commissioner in the form and manner required by the workers'
1 8 compensation commissioner a notice of the commencement of the
1 9 payments. The payments establish conclusively that the
1 10 employer and insurance carrier have notice of the injury for
1 11 which benefits are claimed but the payments do not constitute
1 12 an admission of liability under this chapter or chapter 85,
1 13 85A, or 85B.

1 14 2. If an employer or insurance carrier fails to file the
1 15 notice required by this section, the failure stops the running
1 16 of the time periods in section 85.26 as of the date of the
1 17 first payment. If commenced, the payments shall be terminated
1 18 only when the employee has returned to work, or upon thirty
1 19 days' notice stating the reason for the termination and
1 20 advising the employee of the right to file a claim with the
1 21 workers' compensation commissioner.

1 22 3. This section does not prevent the parties from reaching
1 23 an agreement for settlement regarding compensation. However,
1 24 the agreement is valid only if signed by all parties and
1 25 approved by the workers' compensation commissioner.

1 26 4. a. If a denial, a delay in commencement, or a
1 27 termination of benefits occurs without reasonable or probable
1 28 cause or excuse known to the employer or insurance carrier at
1 29 the time of the denial, delay in commencement, or termination
1 30 of benefits, the workers' compensation commissioner shall
1 31 award benefits in addition to those benefits payable under
1 32 this chapter, or chapter 85, 85A, or 85B, up to fifty percent
1 33 of the amount of benefits that were unreasonably denied,
1 34 delayed, or denied terminated.

1 35 b. The workers' compensation commissioner shall award
2 1 benefits under this subsection if the commissioner finds both
2 2 of the following facts:

2 3 (1) The employee has demonstrated a denial, delay in
2 4 commencement, or termination of benefits.

2 5 (2) The employer has failed to demonstrate a reasonable or
2 6 probable cause or excuse for the denial, delay in
2 7 commencement, or termination of benefits.

2 8 c. In order to be considered a reasonable or probable
2 9 cause or excuse under paragraph "b", a cause or excuse shall
2 10 satisfy all of the following criteria:

2 11 (1) The cause or excuse was preceded by a reasonable
2 12 investigation and evaluation by the employer or insurance
2 13 carrier into whether benefits were owed to the employee.

2 14 (2) The results of the reasonable investigation and
2 15 evaluation were the actual basis upon which the employer or
2 16 insurance carrier contemporaneously relied to deny, delay, or
2 17 terminate benefits.

2 18 (3) The employer or insurance carrier contemporaneously
2 19 conveyed the basis for the denial, delay in commencement, or
2 20 termination of benefits to the employee at the time of the
2 21 denial, delay in commencement, or termination of benefits.

2 22 EXPLANATION

2 23 This bill relates to the imposition of additional workers'
2 24 compensation benefits for benefits that were unreasonably
2 25 denied, delayed, or terminated.

2 26 Code section 86.13 is amended to provide that such
2 27 additional benefits, up to 50 percent of the benefits
2 28 wrongfully withheld, shall be awarded if a denial, delay in
2 29 commencement, or termination of workers' compensation benefits
2 30 occurs without reasonable or probable cause or excuse that was
2 31 known to the employer or insurance carrier at the time the
2 32 benefits were denied, delayed, or terminated.

2 33 The bill requires the workers' compensation commissioner to
2 34 award the additional benefits if the employee demonstrates
2 35 that a denial, delay in commencement, or termination of
3 1 benefits has occurred and the employer fails to demonstrate a
3 2 reasonable or probable cause or excuse for the denial, delay,
3 3 or termination.

3 4 The bill provides that in order to be considered a
3 5 reasonable or probable cause or excuse, a cause or excuse must
3 6 be preceded by a reasonable investigation and evaluation by
3 7 the employer or insurance carrier of whether benefits were
3 8 owed to the employee; the results of the reasonable
3 9 investigation and evaluation must be the actual basis upon
3 10 which the employer or insurance carrier contemporaneously
3 11 relied in executing the denial, delay, or termination of
3 12 benefits; and the employer or insurance carrier must convey
3 13 the basis for the denial, delay, or termination of benefits to
3 14 the employee contemporaneously with such denial, delay, or
3 15 termination.

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