

HOUSE BILL 1963

By Sargent

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6 and Title 56, relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 50-6-241, is amended by adding the following as a new subsection:

(e)

(1) It is the intent of the general assembly to adopt as public policy for this state specific provisions related to workers' compensation to preserve the tradition of legal immigration while seeking to close the door to illegal workers in this state and to encourage the employers of this state to comply with federal immigration laws in the hiring or continued employment of individuals who are not eligible or authorized to work in the United States.

(2) The general assembly takes notice that federal law prohibits a pre-injury employer from permitting an employee to return to work following the injury when the employee is not eligible or authorized to work in the United States pursuant to federal immigration laws; and, therefore, the general assembly adopts as public policy the following as the compensation to which such an employee is entitled for permanent partial disability benefits:

(A) For injuries occurring on or after July 1, 2009, in cases in which an injured employee is eligible to receive any permanent partial disability benefits either for body as whole or schedule member injuries, the maximum permanent partial disability benefits that the employee may

receive is up to one and one-half (1½) times the medical impairment rating determined pursuant to § 50-6-204(d)(3); provided, the employer can show by a preponderance of the evidence, that the employer in good faith complied with the employment eligibility and identity verification requirements of federal law when the employee was hired:

(i) By ensuring the employee completed Section 1 of the Form I-9 at the time the employee started to work;

(ii) By reviewing the documents provided by the employee to establish the employee's identity and eligibility to work;

(iii) By making a good faith determination that the documents presented by the employee for employment and identity authorization appeared to relate to the employee, appeared to be genuine and that the documents provided were in the list of acceptable documents on Form I-9; and

(iv) By reverifying the employment eligibility of the employee upon the expiration of the employee's work authorization and by completing Section 3 of Form I-9, if applicable; and

(B) The presumption created in subdivision (e)(2)(A) can be rebutted by the employee upon clear and convincing evidence that the employer had actual knowledge of the unauthorized status of the employee at the time of hire or at the time of the injury or both. If the presumption is rebutted, the employer shall be liable to pay a sum equal to five (5) times the medical impairment rating determined by the

authorized treating physician pursuant to § 50-6-204(d)(3) in the following manner:

(i) A sum equal to as compensation one and one-half (1½) times the medical impairment rating determined pursuant to § 50-6-204(d)(3) shall be paid in a lump sum to the employee; and

(ii) The remainder shall be paid as a lump sum by the employer into and shall become a part of the uninsured employers fund created by § 50-6-801.

SECTION 2. Tennessee Code Annotated, Section 50-6-242, is amended by adding the following as a new subsection:

(c) Subsections (a) and (b) shall not apply to injuries sustained on or after July 1, 2009, by an employee who is not eligible or authorized to work in the United States pursuant to federal immigration laws.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.