

HOUSE BILL 2416

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 50, Chapter 6 and Title 50, Chapter 9, relative to employer and employee.

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

SECTION 1. Tennessee Code Annotated, Section 50-6-102(16)(B), is amended by deleting the subdivision and substituting instead the following:

(B) As used in subdivision (15)(A), the state average weekly wage shall be determined as of the preceding January 1, using the data from the bureau and shall be effective on July 1 of each year;

SECTION 2. Tennessee Code Annotated, Section 50-6-201(a)(1), is amended by deleting the language "thirty (30)" between "within" and "days" and substituting instead the language "three (3)".

SECTION 3. Tennessee Code Annotated, Section 50-6-201(b), is amended by deleting the language "thirty (30)" between "within" and "days" and substituting instead the language "three (3)".

SECTION 4. Tennessee Code Annotated, Section 50-6-216(e)(2), is amended by adding the following language as a new, appropriately designated subdivision:

( ) Approve a settlement between an employer and employee who are not represented by an attorney in the claim as authorized by § 50-6-240(f);

SECTION 5. Tennessee Code Annotated, Section 50-6-240(f), is amended by deleting the subsection and substituting instead the following:

(f)

(1) It is the intent of the general assembly that employers and employees who are not represented by legal counsel should be afforded an opportunity to obtain approval of a settlement of a workers' compensation claim under certain circumstances and without incurring the cost of formal legal representation. The general assembly is also mindful of the prohibition of the unauthorized practice of law and the requirement that employers generally must have legal representation in the court of workers' compensation claims, which is exclusively empowered with approving settlements of workers' compensation claims. The general assembly is also aware of the legislatively created ombudsman program that was intended to assist unrepresented employers and employees with issues related to a claim and that the ombudsman program should be expanded to enable ombudsmen to approve workers' compensation settlements under certain conditions.

(2) An ombudsman may approve a proposed settlement between the parties if:

- (A) Neither party is represented by an attorney;
- (B) The settlement agreement has been signed by the parties;
- (C) There are no disputes between the parties concerning the facts or the law governing the claim;
- (D) The settlement is limited to an award of permanent partial disability benefits pursuant to § 50-6-207(3)(A);
- (E) The settlement does not contain a waiver of or settlement of the employee's rights under § 50-6-207(3)(B);
- (F) The settlement does not limit in any way the employee's right to medical benefits pursuant to § 50-6-204; and
- (G) The ombudsman has determined that the employee is receiving, substantially, the benefits provided by this chapter.

(3) An ombudsman shall approve or reject settlements submitted to the bureau within three (3) business days after the settlement has been received by the bureau and assigned to the ombudsman for consideration.

(4) In approving settlements, an ombudsman shall consider all pertinent factors and shall thoroughly inform the employee of the scope of benefits available under this chapter and the employee's rights and the procedures necessary to protect those rights.

(g) No party may settle a claim for permanent disability benefits unless the settlement agreement has been approved by a workers' compensation judge or an ombudsman. Any settlement agreement not approved pursuant to this subsection (f) is void.

SECTION 6. Tennessee Code Annotated, Section 50-9-101(a), is amended by deleting the subsection and substituting instead the following:

(a) It is the intent of the general assembly to promote drug-free workplaces in order that employers in this state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from drug or alcohol abuse by employees. It is also the intent of the general assembly that employers obtaining certification as a drug-free workplace under rules promulgated by the bureau of workers' compensation should be able to renew that certification on an annual basis without requiring repeated annual training of existing employees so long as the employer certifies on a form prescribed by the bureau that all existing employees have undergone training at least once and have acknowledged annually in writing the existence of the employer's drug-free workplace policy. It is further the intent of the general assembly

that drug and alcohol abuse be discouraged and that employees who choose to engage in drug or alcohol abuse face the risk of unemployment and the forfeiture of workers' compensation benefits.

SECTION 7. Tennessee Code Annotated, Section 50-9-111(d), is amended by deleting the subsection and substituting instead the following:

(d) The administrator of the bureau of workers' compensation is authorized to set education program requirements for drug-free workplaces by rules promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The requirements shall not be more stringent than the federal requirements for workplaces regulated by rules of the United States department of transportation. The requirements shall not require an employer to provide annual education or awareness training for each employee if all existing employees have undergone the training at least once and have acknowledged annually in writing the existence of the employer's drug-free workplace policy.

SECTION 8. This act shall take effect July 1, 2016, the public welfare requiring it, and shall apply to injuries occurring on or after that date.