

ACT 93

S.B. NO. 2524-82

A Bill for an Act Relating to Workers' Compensation.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 386-33, Hawaii Revised Statutes, is amended to read as follows:

“§386-33 Subsequent injuries which would increase disability. [If an employee receives an injury which of itself would cause a permanent partial disability but which, combined with a previous disability, results in a greater permanent partial disability or in permanent total disability, the employer shall pay compensation only for such disability as would have been caused by the injury without the previous disability. The employee shall be entitled to full compensation for his actual permanent partial or total disability, and, after receipt of the compensation payable by the employer, weekly payments of the balance of the compensation to which the employee is entitled shall be made out of the special compensation fund by orders of the director of labor and industrial relations.]

(a) Where prior to any injury an employee suffers from a previous permanent partial disability and the disability resulting from the injury combines with the previous disability to result in a greater permanent partial disability or in permanent total disability or in death then weekly benefits shall be paid as follows:

- (1) In cases where the disability resulting from the injury combines with the previous disability to result in greater permanent partial disability the employer shall pay the employee compensation for the employee's actual permanent partial disability but for not more than one hundred four weeks; the balance if any of compensation payable to the employee for the employee's actual permanent partial disability shall thereafter be paid out of the special compensation fund;
- (2) In cases where the disability resulting from the injury combines with the previous disability to result in permanent total disability the employer shall pay the employee for one hundred four weeks and thereafter compensation for permanent total disability shall be paid out of the special compensation fund;
- (3) In cases where the disability resulting from the injury combines with the previous disability to result in death the employer shall pay weekly benefits in accordance with sections 386-41 and 386-43 but for not more than one hundred four weeks; the balance of compensation payable under those sections shall thereafter be paid out of the special compensation fund.

(b) Subsection (a) to the contrary notwithstanding, where the director or the appellate board determines that the previous permanent partial disability amounted to less than that necessary to support an award of thirty-two weeks of compensation for permanent partial disability there shall be no liability on the special compensation fund, and in any such case the employer shall pay the employee or the employee's dependents full compensation for the employee's actual permanent partial or total disability or death."

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 15, 1982.)