



Scheuer Mackin & Breslin LLC

Workers' Compensation Legal Alert

Senate Bill 7 Sent to Governor Taft for Signature

On March 8, 2006 Senate Bill 7 was passed by the Ohio Legislature. The bill includes a comprehensive set of changes which are, in general, extremely favorable to Ohio businesses, including:

- 1) Raising the threshold for claims for aggravation of pre-existing injuries. Under the new law, a pre-existing condition is not compensable unless it was "substantially aggravated" by the injury. A "substantial aggravation" must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Providing that no compensation or benefits are payable because of the pre-existing condition once that condition has returned to a level that would have existed without the injury.
- 2) Limiting the Industrial Commission's continuing jurisdiction in both medical only and lost time claims to five years. Currently, the Industrial Commission maintains continuing jurisdiction over inactive medical only and lost time claims for six and ten years respectively.
- 3) Reducing the waiting time for filing for permanent partial disability compensation from 40 weeks to 26.
- 4) Decreasing the number of weeks of non-wage loss compensation to which claimants are entitled. Under the new law, claimants would be entitled to a maximum of 52 weeks of non-working wage loss compensation, and 226 weeks of working and non-working wage loss combined.
- 5) Limiting the Industrial Commission's ability to consider non-disability related factors when determining claimants' eligibility for permanent total disability compensation.
- 6) Specifying that a claimant may no longer dismiss an employer's appeal of an Industrial Commission decision into Common Pleas Court without the employer's consent. Defining an injury to include psychiatric conditions arising as the result of a sexual assault.
- 7) Allowing for the settlement of state fund claims outside of the employer's experience without the need for signature by the employer.
- 8) Allows self insured employers to opt out of surplus fund reimbursement for successful appeals in exchange for a reduction in their self insured assessments. Said election is irrevocable.

The new law also increases the penalties for late payment of employer premiums, increases the cap on fees for claimants' attorneys in court cases to \$4,200, increases the resources available to the Bureau of Workers' Compensation's Special Investigations unit, and strengthens the provisions of the law concerning fraud by employers and health care providers. The bill has been sent to Governor Taft, who has indicated that he will sign it into law.

This update is provided as a service to our friends and clients for informational purposes, and is not intended to constitute legal advice applicable to any given case. Please contact any of our attorneys for more information as to this important change in Ohio workers' compensation law.

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