



Ohio Legislative Service Commission

Bill Analysis

Kelly Bomba

S.B. 149

131st General Assembly
(As Introduced)

Sens. Schiavoni, Cafaro, Yuko, Brown, Skindell

BILL SUMMARY

- Specifies that the loss of use of a body part for purposes of determining eligibility for permanent partial disability and permanent total disability compensation under the Workers' Compensation Law includes when the loss is caused by loss of function of or injury to the brain or spinal cord.

CONTENT AND OPERATION

Brain and spinal cord injuries under the Workers' Compensation Law

The bill specifies, for claims arising under the Workers' Compensation Law¹ on or after the bill's effective date, that the loss of use of a body part for purposes of determining eligibility for permanent partial disability (PPD) and permanent total disability (PTD) compensation under the Workers' Compensation Law includes when the loss is caused by loss of function of or injury to the brain or spinal cord.² The Ohio Supreme Court held in 2014 that loss of brain-stem functioning is not covered under current law governing PPD compensation.³

Under continuing law, an individual is generally eligible for PPD compensation if the individual suffers the loss or loss of use of a body part specified in the law. The number of weeks an individual receives a PPD award is based on the type of body part the individual lost or of which the individual loses use. Courts have held that PPD

¹ R.C. Chapters 4121., 4123., 4127., and 4131.

² R.C. 4123.57(B) and 4123.58(C) and Section 3.

³ *State ex rel. Smith v. Indus. Comm.*, 138 Ohio St.3d 312, 2014-Ohio-513.

compensation is more like an award of damages instead of a measurement of the loss of earnings capacity.⁴

PTD compensation is in addition to PPD compensation and is designed to compensate an individual for the individual's loss in earnings capacity. An individual is generally eligible for PTD compensation under continuing law if the individual suffers the loss or loss of use of both hands, both arms, both feet, both legs, both eyes, or some combination of loss affecting two or more separate appendages, or the individual's injury prevents the individual from engaging in sustained remunerative employment utilizing the employment skills that the individual has or may reasonably be expected to develop.⁵

HISTORY

ACTION	DATE
Introduced	04-20-15

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⁴ R.C. 4123.57(B) and *State ex rel. General Motors Corp. v. Indus. Comm.*, 42 Ohio St.2d 278 (1975).

⁵ R.C. 4123.58(C) and *State ex rel. General Motors Corp. v. Indus. Comm.*, 42 Ohio St.2d 278 (1975).

