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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to permanent total disability

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 15 of the workers' compensation
2 law, as amended by chapter 675 of the laws of 1977, is amended to read
3 as follows:
4 1. Permanent total disability. In case of total disability adjudged to
5 be permanent sixty-six and two-thirds per centum of the average weekly
6 wages shall be paid to the employee during the continuance of such total
7 disability. Loss of both hands, or both arms, or both feet, or both
8 legs, or both eyes, or of any two thereof, OR APPROVAL FOR FEDERAL
9 SOCIAL SECURITY DISABILITY BENEFITS, shall, in the absence of conclusive
10 proof to the contrary, constitute permanent total disability. In all
11 other cases permanent total disability shall be determined in accordance
12 with the facts. Notwithstanding any other provision of this chapter, an
13 injured employee disabled due to the loss or total loss of use of both
14 eyes, or both hands, or both arms, or both feet, or both legs, or of any
15 two thereof shall not suffer any diminution of his OR HER compensation
16 by engaging in business or employment provided his OR HER earnings or
17 wages, when combined with his OR HER compensation, shall not be in
18 excess of the wage base on which the maximum weekly compensation benefit
19 is computed under the law in effect at time of such earning; further
20 provided, that if the combination exceeds such wage base, the compen-
21 sation shall be diminished to an amount which, together with his OR HER
22 earnings or wages, shall equal the wage base; and further provided that
23 the application of this subdivision shall not result in reduction of
24 compensation which an injured employee who is disabled due to the loss

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 or total loss of use of both eyes, or both hands, or both arms, or both
2 feet, or both legs or of any two thereof, would otherwise be entitled to
3 under any other provision of this section.
4 S 2. This act shall take effect immediately.