STATE OF NEW YORK

1799

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sens. RAMOS, BRISPORT, JACKSON, MAYER -- 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 eligibility for classification as permanent total disability

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 1 of section 15 of the workers' compensation law, as amended by chapter 675 of the laws of 1977, is amended to read as follows:

1. Permanent total disability. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof**, or inability to perform the full range of sedentary work, or approval for federal social security disability benefits as a result of a compensable accident or occupational disease** shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts. Notwithstanding any other provision of this chapter, an injured employee disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs, or of any two thereof shall not suffer any diminution of his compensation by engaging in business or employment provided his earnings or wages, when combined with his compensation, shall not be in excess of the wage base on which the maximum weekly compensation benefit is computed under the law in effect at time of such earning; further provided, that if the combination exceeds such wage base, the compensation shall be diminished to an amount which, together with his earnings or wages, shall equal the wage base; and further provided that the application of this subdivision

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

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shall not result in reduction of compensation which an injured employee who is disabled due to the loss or total loss of use of both eyes, or both hands, or both arms, or both feet, or both legs or of any two thereof, would otherwise be entitled to under any other provision of this section. **For the purposes of this section, inability to perform the full range of sedentary work shall mean the inability to exert up to ten pounds of force occasionally or up to one-third of the workday, or the inability to exert a negligible amount of force frequently to lift, carry, push, pull, or otherwise move objects, including the home body, and examples of the inability to perform the full range of sedentary work shall include but not be limited to the inability to sit for at least six hours in an eight-hour day and occasionally walk or stand for no more than two hours in an eight-hour day. In circumstances where the inability to perform the full range of sedentary work involves the performance of unskilled sedentary work, related activities of a non-exertional nature such as seeing, hand-manipulation, and understanding, remembering, and carrying out simple instructions shall be considered.**

§ 2. This act shall take effect immediately and shall apply to injuries subject to the provisions of the workers' compensation law arising on and after the effective date of this act.