

Senate Bill No. 91

(By Senators Laird, Barnes, Green, Yost, Foster and Plymale)

[Introduced January 14, 2011; referred to the Committee on Government Organization; and then to the Committee on Finance.]

**Interim
Bill**

A BILL to amend and reenact §23-4-1e of the Code of West Virginia, 1931, as amended, relating to the temporary total disability benefits not to be paid for periods of correctional center or jail confinement; denial of workers' compensation benefits for injuries or disease incurred while confined; and providing that individuals confined in a state correctional facility or jail and working for a correctional industries program shall be eligible to receive workers' compensation benefits.

Be it enacted by the Legislature of West Virginia:

That §23-4-1e of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-1e. Temporary total disability benefits not to be paid for periods of correctional center or jail confinement; denial of workers' compensation benefits for injuries

1 **or disease incurred while confined.**

2 (a) Notwithstanding any provision of this code to the
3 contrary, no person shall be jurisdictionally entitled to temporary
4 total disability benefits for that period of time in excess of
5 three days during which that person is confined in a state
6 correctional facility or jail: *Provided*, That confinement shall
7 not affect the claimant's eligibility for payment of expenses:
8 *Provided, however*, That this subsection is applicable only to
9 injuries and diseases incurred prior to any period of confinement.
10 Upon release from confinement, the payment of benefits for the
11 remaining period of temporary total disability shall be made if
12 justified by the evidence and authorized by order of the
13 commission, successor to the commission, other private carrier or
14 self-insured employer, whichever is applicable.

15 (b) Notwithstanding any provision of this code to the
16 contrary, no person confined in a state correctional facility or
17 jail who suffers injury or a disease in the course of and resulting
18 from his or her work during the period of confinement which work is
19 imposed by the administration of the state correctional facility or
20 jail and is not suffered during the person's usual employment with
21 his or her usual employer when not confined shall receive benefits
22 under the provisions of this chapter for the injury or disease:
23 *Provided*, That individuals otherwise confined in a state
24 correctional facility or jail and working in a program authorized

1 by sections fourteen or sixteen of article seven, chapter twenty-
2 five of this code shall be eligible to receive benefits under the
3 provisions of this chapter. The coverage for such benefits may be
4 obtained either by the private entity specified in subparagraphs
5 (a) (5) of sections fourteen and sixteen of article seven, chapter
6 twenty-five of this code or by the Division of Corrections
7 directly.

NOTE: The purpose of this bill is to allow correctional industries to directly purchase workers' compensation coverage for inmates rather than having the private employer purchase such coverage. Correctional industries has the authority under current law to enter into contracts with private employers to manufacture a product and would essentially be a sub-contractor.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

This bill was recommended for introduction and passage during the 2011 Regular Session of the Legislature by the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority.