

SENATE BILL NO. 2175

Introduced by

Senator Vedaa

Representatives Louser, Thomas

1 A BILL for an Act to amend and reenact section 65-05-09.1 of the North Dakota Century Code,
2 relating to notice of social security offset.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 65-05-09.1 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **65-05-09.1. Social security offset.**

7 1. When an injured employee, or spouse or dependent of an injured employee, is eligible
8 for and is receiving permanent total or temporary total disability benefits under section
9 65-05-09, and also is ~~also~~ eligible for, is receiving, or will receive, benefits under title II
10 of the Social Security Act [42 U.S.C. 423], the aggregate benefits payable under
11 section 65-05-09 must be reduced, but not below zero, by an amount equal as nearly
12 as practicable to one-half of such federal benefit. The federal benefit, or primary
13 insurance amount, must be determined by the social security administration. The
14 amount to be offset must equal the primary insurance amount rounded to the next
15 lowest dollar less credit for either the entire amount of attorney's fees and costs, or the
16 fees and costs paid to an authorized representative of the employee as allowed by the
17 social security administration, withheld from past-due social security benefits or paid
18 directly by the claimant for representation before the social security administration.
19 The amount of the offset computed by the organization initially must remain the same
20 throughout the period of eligibility and may not be affected by any increase or
21 decrease in federal benefits.

22 2. Any injured employee, or dependent of an injured employee, receiving permanent total
23 or temporary total disability benefits under section 65-05-09 and whose benefits are
24 offset as provided ~~herein~~ in this section, is not eligible for any escalation of benefits

1 which would adversely affect the organization's right to offset workforce safety and
2 insurance benefits against social security benefits, as provided for in this chapter. This
3 offset will become effective on January 1, 1980, provided ~~that it~~the offset meets the
4 criteria necessary to allow states to offset federal benefits under title II of the Social
5 Security Act [42 U.S.C. 424a]. Providing further that:

- 6 4. a. If the receipt of social security benefits results in an overpayment of temporary or
7 permanent total disability benefits by the organization, a refund of any
8 overpayment must be made by the injured employee or that overpayment must
9 be taken from future disability benefits, permanent partial impairment awards, or
10 personal reimbursements on the current claim or any future claim filed, at a
11 recovery rate to be determined by the organization.
- 12 2. b. If a claim has been accepted on an aggravation basis and the injured worker is
13 eligible for social security benefits, the organization's offset must be
14 proportionally calculated.
- 15 3. c. If any person described in this section refuses to authorize the release of
16 information concerning the amount of benefits payable under the Social Security
17 Act, the organization's estimate of the amount is deemed to be correct until the
18 actual amount is established and no adjustment may be made for any period of
19 time covered by the refusal.
- 20 3. The organization shall notify the injured employee, spouse, or dependent of an injured
21 employee by mail, sent to the last-known address of the employee, spouse, or
22 dependent, when the aggregate benefits payable under section 65-05-09 are subject
23 to reduction to offset federal benefits the injured employee is eligible for, is receiving,
24 or will receive under title II of the Social Security Act [42 U.S.C. 423]. The organization
25 shall mail the notice one year, six months, and three months before the reduction
26 occurs.