

1 S.266

2 Introduced by Senators Illuzzi, Campbell, Carris and Shumlin

3 Referred to Committee on

4 Date:

5 Subject: Labor; workers' compensation; late payment penalty; independent
6 medical examinations; termination of temporary total disability
7 benefits

8 Statement of purpose: This bill proposes to provide for employer penalty for
9 late payment of benefits; permit an injured employer to video insurance
10 medical examinations; and change the burden of proof regarding termination
11 of temporary total disability benefits.

12 An act relating to rights of workers' compensation claimants

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 Sec. 1. 21 V.S.A. § 643a is amended to read:

15 § 643a. DISCONTINUANCE OF BENEFITS

16 Unless an injured worker has successfully returned to work, an employer
17 shall notify both the commissioner and the employee prior to terminating
18 benefits under either section 642 or 646 of this title. The notice of intention to
19 discontinue payments shall be filed on forms prescribed by the commissioner
20 and shall include the date of the proposed discontinuance and the reasons for it.

1 The liability for the payments shall continue for seven days after the notice is
2 received by the commissioner and the employee. Those payments shall be
3 made without prejudice to the employer and may be deducted from any
4 amounts due pursuant to section 648 of this title if the commissioner
5 determines that the discontinuance is warranted or if otherwise ordered by the
6 commissioner. Every notice shall be reviewed by the commissioner to
7 determine the sufficiency of the basis for the proposed discontinuance. If,
8 upon review, the commissioner finds that the medical evidence provided by the
9 claimant reasonably supports the claim, or, if the claimant did not provide
10 evidence that the evidence provided by the employer does not reasonably
11 support the proposed discontinuance, the commissioner shall order that
12 payments continue until a hearing is held and a decision is rendered. If the
13 commissioner's decision, after a hearing, is that the employee was not entitled
14 to any or all benefits paid between the discontinuance and the final decision,
15 upon request of the employer, the commissioner may order that the employee
16 repay ~~all~~ up to 20 percent of the wage benefits to which the employee was not
17 entitled. The employer may enforce ~~such~~ a repayment order in any court of
18 law having jurisdiction ~~of the amount involved~~.

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1 (f) When weekly benefits have been awarded or are not in dispute as
2 provided in subsection (e) of this section, the employer shall establish a week
3 day on which payment shall be made and shall assure that each weekly
4 payment is made on the day established. If the weekly benefit payment is not
5 paid on the day established, the employer shall pay to the claimant a late fee of
6 \$10.00 or five percent of the benefit amount, whichever is greater for each
7 weekly payment that is paid after the established day. For the purposes of this
8 subsection, payment means delivery at the employee's mailing address or, in
9 the case of direct deposit transfer, in the designated account.

10 Sec. 3. 21 V.S.A. § 655 is amended to read:

11 § 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL
12 EXAMINATION

13 After an injury and during the period of disability, if so requested by his or
14 her employer, or ordered by the commissioner, the employee shall submit
15 himself or herself to examination, at reasonable times and places, to a duly
16 licensed physician or surgeon designated and paid by the employer. The
17 employee ~~shall have the right to~~ may make a video recording of the
18 examination or have a physician or surgeon designated and paid by ~~himself or~~
19 ~~herself~~ the employee present at ~~such~~ the examination. ~~Such~~ This right,
20 ~~however,~~ shall not be construed to deny to the employer's physician the right
21 to visit the injured employee at all reasonable times and under all reasonable

1 conditions during total disability. If an employee refuses to submit ~~himself or~~
2 ~~herself~~ to or in any way obstructs ~~such~~ the examination, ~~his or her~~ the
3 employee's right to ~~take or~~ prosecute any proceeding under the provisions of
4 this chapter shall be suspended until ~~such~~ the refusal or obstruction ceases, and
5 compensation shall not be payable for the period during which ~~such~~ the refusal
6 or obstruction continues.