

1 AN ACT relating to workers' compensation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 342.730 is amended to read as follows:

4 (1) Except as provided in KRS 342.732, income benefits for disability shall be paid to
5 the employee as follows:

6 (a) For temporary or permanent total disability, sixty-six and two-thirds percent
7 (66-2/3%) of the employee's average weekly wage but not more than one
8 hundred ten percent (110%) of the state average weekly wage and not less
9 than twenty percent (20%) of the state average weekly wage as determined in
10 KRS 342.740 during that disability. Nonwork-related impairment and
11 conditions compensable under KRS 342.732 and hearing loss covered in KRS
12 342.7305 shall not be considered in determining whether the employee is
13 totally disabled for purposes of this subsection.

14 (b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of
15 the employee's average weekly wage but not more than eighty-two and one-
16 half percent (82.5%) of the state average weekly wage as determined by KRS
17 342.740, multiplied by the permanent impairment rating caused by the injury
18 or occupational disease as determined by the "Guides to the Evaluation of
19 Permanent Impairment," times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	0.65
6 to 10%	0.85
11 to 15%	1.00
16 to 20%	1.00
21 to 25%	1.15
26 to 30%	1.35
31 to 35%	1.50

1 36% and above 1.70

2 Any temporary total disability period within the maximum period for
3 permanent, partial disability benefits shall extend the maximum period but
4 shall not make payable a weekly benefit exceeding that determined in
5 subsection (1)(a) of this section. Notwithstanding any section of this chapter
6 to the contrary, there shall be no minimum weekly income benefit for
7 permanent partial disability and medical benefits shall be paid for the duration
8 of the disability.

- 9 (c) 1. If, due to an injury, an employee does not retain the physical capacity to
10 return to the type of work that the employee performed at the time of
11 injury, the benefit for permanent partial disability shall be multiplied by
12 three (3) times the amount otherwise determined under paragraph (b) of
13 this subsection, but this provision shall not be construed so as to extend
14 the duration of payments; or
- 15 2. If an employee returns to work at a weekly wage equal to or greater than
16 the average weekly wage at the time of injury, the weekly benefit for
17 permanent partial disability shall be determined under paragraph (b) of
18 this subsection for each week during which that employment is
19 sustained. During any period of cessation of that employment, temporary
20 or permanent, for any reason, with or without cause, payment of weekly
21 benefits for permanent partial disability during the period of cessation
22 shall be two (2) times the amount otherwise payable under paragraph (b)
23 of this subsection. This provision shall not be construed so as to extend
24 the duration of payments.
- 25 3. Recognizing that limited education and advancing age impact an
26 employee's post-injury earning capacity, an education and age factor,
27 when applicable, shall be added to the income benefit multiplier set

1 forth in paragraph (c)1. of this subsection. If at the time of injury, the
2 employee had less than eight (8) years of formal education, the
3 multiplier shall be increased by four-tenths (0.4); if the employee had
4 less than twelve (12) years of education or a high school Equivalency
5 diploma, the multiplier shall be increased by two-tenths (0.2); if the
6 employee was age sixty (60) or older, the multiplier shall be increased
7 by six-tenths (0.6); if the employee was age fifty-five (55) or older, the
8 multiplier shall be increased by four-tenths (0.4); or if the employee was
9 age fifty (50) or older, the multiplier shall be increased by two-tenths
10 (0.2).

11 4. Notwithstanding the provisions of KRS 342.125, a claim may be
12 reopened at any time during the period of permanent partial disability in
13 order to conform the award payments with the requirements of
14 subparagraph 2. of this paragraph.

15 (d) For permanent partial disability, if an employee has a permanent disability
16 rating of fifty percent (50%) or less as a result of a work-related injury, the
17 compensable permanent partial disability period shall be four hundred twenty-
18 five (425) weeks, and if the permanent disability rating is greater than fifty
19 percent (50%), the compensable permanent partial disability period shall be
20 five hundred twenty (520) weeks from the date the impairment or disability
21 exceeding fifty percent (50%) arises. Benefits payable for permanent partial
22 disability shall not exceed ninety-nine percent (99%) of sixty-six and two-
23 thirds percent (66-2/3%) of the employee's average weekly wage as
24 determined under KRS 342.740 and shall not exceed eighty-two and one-half
25 percent (82.5%) of the state average weekly wage, except for benefits payable
26 pursuant to paragraph (c)1. of this subsection, which shall not exceed one
27 hundred ten percent (110%) of the state average weekly wage, nor shall

1 benefits for permanent partial disability be payable for a period exceeding five
2 hundred twenty (520) weeks, notwithstanding that multiplication of
3 impairment times the factor set forth in paragraph (b) of this subsection would
4 yield a greater percentage of disability.

5 (e) For permanent partial disability, impairment for nonwork-related disabilities,
6 conditions previously compensated under this chapter, conditions covered by
7 KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be
8 considered in determining the extent of disability or duration of benefits under
9 this chapter.

10 (2) The period of any income benefits payable under this section on account of any
11 injury shall be reduced by the period of income benefits paid or payable under this
12 chapter on account of a prior injury if income benefits in both cases are for
13 disability of the same member or function, or different parts of the same member or
14 function, and the income benefits payable on account of the subsequent disability in
15 whole or in part would duplicate the income benefits payable on account of the pre-
16 existing disability.

17 (3) Subject to the limitations contained in subsection (4) of this section, when an
18 employee, who has sustained disability compensable under this chapter, and who
19 has filed, or could have timely filed, a valid claim in his or her lifetime, dies from
20 causes other than the injury before the expiration of the compensable period
21 specified, portions of the income benefits specified and unpaid at the individual's
22 death, whether or not accrued or due at his or her death, shall be paid, under an
23 award made before or after the death, for the period specified in this section, to and
24 for the benefit of the persons within the classes at the time of death and in the
25 proportions and upon the conditions specified in this section and in the order
26 named:

27 (a) To the widow or widower, if there is no child under the age of eighteen (18) or

1 incapable of self-support, benefits at fifty percent (50%) of the rate specified
2 in the award; or

3 (b) If there are both a widow or widower and such a child or children, to the
4 widow or widower, forty-five percent (45%) of the benefits specified in the
5 award, or forty percent (40%) of those benefits if such a child or children are
6 not living with the widow or widower; and, in addition thereto, fifteen percent
7 (15%) of the benefits specified in the award to each child. Where there are
8 more than two (2) such children, the indemnity benefits payable on account of
9 two (2) children shall be divided among all the children, share and share alike;
10 or

11 (c) If there is no widow or widower but such a child or children, then to the child
12 or children, fifty percent (50%) of the benefits specified in the award to one
13 (1) child, and fifteen percent (15%) of those benefits to a second child, to be
14 shared equally. If there are more than two (2) such children, the indemnity
15 benefits payable on account of two (2) children shall be divided equally
16 among all the children; or

17 (d) If there is no survivor in the above classes, then the parent or parents wholly
18 or partly actually dependent for support upon the decedent, or to other wholly
19 or partly actually dependent relatives listed in paragraph (g) of subsection (1)
20 of KRS 342.750, or to both, in proportions that the commissioner provides by
21 administrative regulation.

22 (e) To the widow or widower upon remarriage, up to two (2) years, benefits as
23 specified in the award and proportioned under paragraphs (a) or (b) of this
24 subsection, if the proportioned benefits remain unpaid, to be paid in a lump
25 sum.

26 (4) All income benefits payable pursuant to this chapter shall terminate as of the date
27 upon which the employee reaches the age of seventy (70), or four (4) years after the

1 employee's injury or last exposure, whichever last occurs. In like manner all income
2 benefits payable pursuant to this chapter to spouses and dependents shall terminate
3 as of the date upon which the employee would have reached age seventy (70) or
4 four (4) years after the employee's date of injury or date of last exposure, whichever
5 last occurs.

6 (5) All income benefits pursuant to this chapter otherwise payable for temporary total
7 and permanent total disability shall be offset by unemployment insurance benefits
8 paid for unemployment during the period of temporary total or permanent total
9 disability.

10 (6) All income benefits otherwise payable pursuant to this chapter shall be offset by
11 payments made under an exclusively employer-funded disability plan, exclusively
12 employer-funded disability retirement plan, exclusively employer-funded sickness
13 and accident plan, or salary continuation, which extends income benefits for the
14 same disability covered by this chapter, except where the employer-funded plan
15 contains an internal offset provision for workers' compensation benefits which is
16 inconsistent with this provision.

17 (7) Income benefits otherwise payable pursuant to this chapter for temporary total
18 disability during the period the employee has returned to a light-duty or other
19 alternative job position shall be offset by an amount equal to the employee's gross
20 income minus applicable taxes during the period of light-duty work or work in an
21 alternative job position.

22 (8) If an employee receiving a permanent total disability award returns to work, that
23 employee shall notify the employer, payment obligor, insurance carrier, or special
24 fund as applicable.

25 (9) Income benefits otherwise payable pursuant to this chapter for temporary total
26 disability to a professional athlete under the direction and control of an employer
27 that is a professional team located in Kentucky, absent any collective bargaining

1 agreement, shall terminate no later than the date on which the contract for hire upon
2 which the employment is based expires, so long as the professional athlete has been
3 released to return to employment for which he or she has prior training or
4 experience.