

**Amendment No. 2 to SB1645**

**Johnson  
Signature of Sponsor**

**AMEND Senate Bill No. 1645**

**House Bill No. 1440\***

by adding the following as a new section 13 and renumbering the remaining section accordingly:

SECTION 13. Tennessee Code Annotated, Section 50-6-242(a), as amended by Public Chapter 289 (2013), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a)

(1) This subsection (a) shall apply to injuries that occur on or after July 1, 2014, but shall not apply to injuries that occur after June 30, 2016.

(2) For injuries that occur during the time period set out in subdivision (a)(1), in extraordinary cases where the employee is eligible for increased benefits under § 50-6-207(3)(B), the employee may receive disability benefits of sixty-six and two-thirds percent (66 2/3%) of the employee's pre-injury average weekly wage or salary for a period not to exceed the two hundred seventy-five (275) weeks inclusive of the benefits provided to the employee under § 50-6-207(3)(A). Benefits may be awarded pursuant to this subsection (a), in lieu of the increased benefits for which the employee is eligible under § 50-6-207(3)(B), if the presiding workers' compensation judge first determines based on clear and convincing evidence that limiting the employee's recovery to the benefits provided by § 50-6-207(3)(B) would be inequitable in light of the totality of the circumstances and the presiding workers' compensation judge makes

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specific, documented findings that as of the date of the award or settlement the three (3) following facts concerning the employee are true:

(A) The employee has been assigned an impairment rating of at least ten percent (10%) to the body as whole, that has been determined according to the AMA guides as defined by § 50-6-102, by the authorized treating physician;

(B) The authorized treating physician has certified on a form provided by the division that due to the permanent restrictions on activity the employee has suffered as a result of the injury the employee no longer has the ability to perform the employee's pre-injury occupation. The authorized treating physician's certification pursuant to this subdivision (a)(2)(B) shall have a presumption of correctness that may be overcome by the presentation of contrary clear and convincing evidence; and

(C) The employee is not earning an average weekly wage or salary that is greater than or equal to seventy percent (70%) of the employee's pre-injury average weekly wage or salary.