

Introduced by

1 A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code,
2 relating to workers' compensation benefits upon attaining retirement age; and to provide for
3 application.

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

5 **SECTION 1. AMENDMENT.** Section 65-05-09.3 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **65-05-09.3. Retirement presumption - Termination of benefits upon retirement.**

- 8 1. An employee who has retired or voluntarily withdrawn from the labor force and
9 who, at that time, was not eligible to receive temporary total disability, temporary
10 partial disability, or permanent total disability benefits; or to receive a rehabilitation
11 allowance from the organization is presumed retired from the labor market. The
12 presumption may be rebutted by a preponderance of the evidence; however, the
13 subjective statement of an employee that the employee is not retired is not
14 sufficient in itself to rebut objective evidence of retirement.
- 15 2. An injured employee who begins receiving social security retirement benefits or
16 other retirement benefits in lieu of social security retirement benefits; or who attains
17 retirement age for social security retirement benefits, unless the employee proves
18 the employee is not eligible to receive social security retirement benefits or other
19 benefits in lieu of social security retirement benefits, is considered retired. The
20 organization may not pay any disability benefits, rehabilitation benefits, or
21 supplementary benefits to an employee who is considered retired; however, the
22 employee remains eligible for medical benefits, permanent partial impairment
23 benefits, and the additional benefit payable under section 65-05-09.4.

- 1 3. The organization retains liability for disability benefits, rehabilitation benefits,
2 permanent partial impairment benefits, and medical benefits for an injured
3 employee who is receiving social security retirement benefits or other retirement
4 benefits in lieu of social security retirement benefits or who attains retirement age
5 for social security retirement benefits, unless the employee is not eligible to receive
6 social security retirement benefits or other benefits in lieu of social security
7 retirement benefits, and who is gainfully employed and who suffers an injury
8 arising out of and in the course of that employment. The organization may not pay
9 disability or rehabilitation benefits under this subsection for more than three years,
10 subject to section 65-05-09.2, for injuries occurring after August 1, 1997.
- 11 4. If an employee is injured within the two years preceding the employee's presumed
12 retirement date, the organization shall pay disability benefits, rehabilitation benefits,
13 or a combination of both benefits for no more than two years. If the duration of
14 disability benefits, rehabilitation benefits, or a combination of both benefits extends
15 beyond the presumed retirement date, the organization shall convert the benefit to
16 an additional benefit payable at the date the disability ends or when two years of
17 benefits have been paid, whichever occurs first.
- 18 5. This section applies to ~~all persons~~ an individual who ~~begin~~ begins receiving social
19 security retirement benefits or other retirement benefits in lieu of social security
20 retirement benefits; or who ~~attain~~ attains retirement age for social security
21 retirement benefits unless the employee proves the employee is not eligible to
22 receive social security retirement benefits or other benefits in lieu of social security
23 retirement benefits, after July 31, 1995.

24 **SECTION 2. APPLICATION.** This Act to applies to an injured employee who attains
25 retirement age for purposes of social security retirement on or after the effective date of this
26 Act.