An act to amend Section 4663 of the Labor Code, relating to workers’ compensation.

LEGISLATIVE COUNSEL’S DIGEST

SB 1115, as introduced, Migden. Workers’ compensation: permanent disability reports: apportionment.

Existing workers’ compensation law generally requires employers to secure the payment of workers’ compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law requires any physician who prepares a report addressing the issue of permanent disability due to a claimed industrial injury to address the issue of causation of the permanent disability, and requires that such a report include an apportionment determination to be considered complete on the issue of permanent disability.

This bill would provide that race, religious creed, color, national origin, age, gender, marital status, sex, or genetic predisposition shall not be considered to be a cause or other factor considered in any determination made pursuant to those provisions.


The people of the State of California do enact as follows:

SECTION 1. Section 4663 of the Labor Code is amended to read:
4663. (a) Apportionment of permanent disability shall be based
on causation.
(b) Any physician who prepares a report addressing the issue
of permanent disability due to a claimed industrial injury shall in
that report address the issue of causation of the permanent
disability.
(c) In order for a physician’s report to be considered complete
on the issue of permanent disability, the report must include an
apportionment determination. A physician shall make an
apportionment determination by finding what approximate
percentage of the permanent disability is caused by the direct
result of injury arising out of and occurring in the course of
employment and what approximate percentage of the permanent
disability is caused by other factors both before and subsequent
to the industrial injury, including prior industrial injuries. If the
physician is unable to include an apportionment determination in
his or her report, the physician shall state the specific reasons why
the physician cannot make a determination of the effect
of that prior condition on the permanent disability arising from the
injury. The physician shall then consult with other physicians or
refer the employee to another physician from whom the employee
is authorized to seek treatment or evaluation in accordance with
this division in order to make the final determination. Race,
religious creed, color, national origin, age, gender, marital status,
sex, or genetic predisposition shall not be considered a cause or
other factor of disability with regard to any determination made
under this section.
(d) An employee who claims an industrial injury shall, upon
request, disclose all previous permanent disabilities or physical
impairments.
(e) Subdivisions (a), (b), and (c) shall not apply to injuries or
illnesses covered under Sections 3212, 3212.1, 3212.2, 3212.3,
3212.4, 3212.5, 3212.6, 3212.7, 3212.8, 3212.85, 3212.9, 3212.10,
3212.11, 3212.12, 3213, and 3213.2.