



California Applicants Attorneys Association
Affiliated with the International Brotherhood of Teamsters

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**BILL BANS BIAS IN DISABILITY CLAIMS:
Alejo Bill Prohibits Insurers from Penalizing Ethnic
Minorities, Women, Older Workers**

SACRAMENTO - The Assembly today passed the California Applicants' Attorneys Association (CAAA) sponsored AB 1155 (Alejo), to ban race, gender and age discrimination in awarding disability compensation to workers injured on the job, by a 44-22 party-line vote. SB 899, Governor Schwarzenegger's workers' compensation bill, is being interpreted to permit discrimination against California workers based on their age, race and gender. Insurers contend that SB 889 allows them to reduce permanent disability compensation awards based on those factors.

Existing workers' compensation law allows an injured worker's permanent disability rating, and permanent disability compensation based on that rating, to be reduced based on factors that lead directly to various forms of unfair and inappropriate discrimination.

While reducing an injured worker's permanent disability compensation due to prior injuries or actual existing disabilities is legal and appropriate, reducing disability compensation based on "risk factors" associated with race, gender or age should not be permitted.

The Commission on Health and Safety and Workers' Compensation (CHSWC) reported that based on more than 10,000 summary cases (where there is no attorney involved) about 10.5% of disability evaluations include an apportionment component. Apportionment is reducing disability ratings in those cases by about 40% on average, according to CHSWC.

“The employers should not pay for disabilities that are unrelated to the job injury,” said Marguerite Sweeney, CAAA Legislative Committee member, CAAA members represent those injured at work. “But the application of the workers’ compensation law – Labor Code Section 4663 – has resulted in the reduction of permanent disability awards on account of a worker’s gender, race or age. We believe this is an unintended consequence, and AB 1155 would eliminate this problem.”

“For example, women are more likely to develop carpal tunnel syndrome and depression. We have seen doctors reduce a female worker’s permanent disability on account of ‘being female’,” said Sweeney, a Redding attorney.

Example of the impermissible application of discrimination in applying Labor Code §4663.

Example: San Diego Costco worker loses HALF of permanent disability compensation due to genetic predisposition (African-American racial heritage) to hypertension.

An African-American male was injured after exposure to cleaning chemicals while working for Costco in San Diego. The doctor determined he had a work injury with permanent disabilities due to hypertension and chronic asthma. The doctor deducted 50% of the permanent disability compensation due to non-industrial “risk factors.” These “risk factors” included *genetic predisposition, and family history*. *The worker had no history of hypertension before the industrial toxic chemical exposure.*

Compensation to disabled workers has been cut by millions each year due to this discrimination. Schwarzenegger as governor twice vetoed similar measures. The measure will now go to the Senate.

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