**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 4354**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. McCoy, Murphy, Sottile, Garvin and Simrill

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Companion/Similar bill(s): 642

Introduced in the House on March 28, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Workers' Comp

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/28/2019 House Introduced and read first time ([House Journal‑page 49](file:///h:\hj\20190328.docx))

3/28/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 49](file:///h:\hj\20190328.docx))

4/2/2019 House Member(s) request name added as sponsor: Garvin, Simrill

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**VERSIONS OF THIS BILL**

[3/28/2019](file:///p:\pprever\2019-20\4354_20190328.docx)

**A** **BILL**

TO AMEND SECTION 42‑9‑260, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO COMPENSATION AND PAYMENTS IN WORKERS’ COMPENSATION, SO AS TO PROVIDE WHEN EMPLOYEES SUFFER COMPENSABLE INJURIES AND RECEIVE COMPENSATION FOR THOSE INJURIES FROM THEIR EMPLOYER OR CERTAIN OTHER PARTIES UNDER THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT, THEIR EMPLOYER OR EMPLOYER’S REPRESENTATIVE IS ENTITLED TO A DOLLAR‑FOR‑DOLLAR CREDIT FOR PAYMENT OF INDEMNITY BENEFITS UNDER THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT AGAINST INDEMNITY BENEFITS DUE TO THE EMPLOYEE UNDER THE ACT FOR THE SAME INJURY, TO PROVIDE THE WORKERS’ COMPENSATION COMMISSION IS NOT PREVENTED FROM AWARDING THE CREDIT ON CONCURRENT JURISDICTION CASES ARISING OUT OF ACCIDENTS OCCURRING PRIOR TO JULY 1, 2019, TO PROVIDE PAYMENT OF INDEMNITY BENEFITS BY THE EMPLOYER UNDER THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT DOES NOT CONSTITUTE AN ELECTION OF REMEDIES BY THE EMPLOYEE UNDER EITHER THE SOUTH CAROLINA WORKERS’ COMPENSATION ACT OR THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT, AND TO PROVIDE PAYMENT OF INDEMNITY BENEFITS BY THE EMPLOYER UNDER THE SOUTH CAROLINA WORKERS’ COMPENSATION ACT, THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT, OR BOTH, FOR A PERIOD OF NO LESS THAN SIX WEEKS SHALL MAKE THE EMPLOYEE ELIGIBLE TO BE AWARDED A LUMP SUM PAYMENT UNDER THE SOUTH CAROLINA WORKERS’ COMPENSATION ACT PROVIDED CERTAIN OTHER PROVISIONS OF THAT ACT ARE FOUND BY THE SOUTH CAROLINA WORKERS’ COMPENSATION COMMISSION TO HAVE BEEN SATISFIED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 42‑9‑260 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Should any employee, on or after July 1, 2019, suffer an injury for which the employee receives compensation benefits, of any kind, nature, and/or category, from their employer (or their employer’s carrier, self‑insured fund, mutual indemnity association, or other entity providing coverage under the Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. Section 901, et seq., and its extensions), the employer and/or the employer’s representative is entitled to a dollar‑for‑dollar credit for payment of indemnity benefits under the Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. Section 901, et seq., against indemnity benefits due to the employee under the South Carolina Workers’ Compensation Act for the same injury. Notwithstanding this section, and/or any provision of this title, the South Carolina Workers’ Compensation Commission is not prevented from awarding the dollar‑for‑dollar credit on concurrent jurisdiction cases arising out of accidents occurring prior to July 1, 2019, on a case‑by‑case basis. Payment of indemnity benefits by the employer under the Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. Section 901, et seq., does not constitute an election of remedies by the employee under either the South Carolina Workers’ Compensation Act or the Longshore and Harbor Workers’ Compensation Act. Payment of indemnity benefits by the employer under the South Carolina Workers’ Compensation Act and/or the Longshore and Harbor Workers’ Compensation Act, 33 U.S.C. Section 901, et seq., for a period of not less than six weeks shall make the employee eligible to be awarded a lump sum payment under the South Carolina Workers’ Compensation Act, provided that all other provisions of Section 42‑9‑301 of the South Carolina Workers’ Compensation Act are found by the South Carolina Workers’ Compensation Commission to have been satisfied.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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