

[First Reprint]

**ASSEMBLY, No. 1110**

**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Co-Sponsored by:**

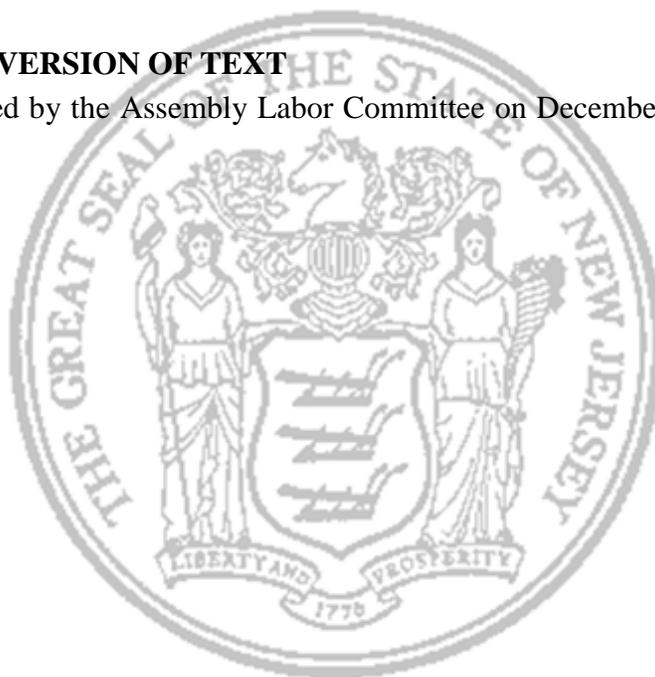
**Assemblywoman Chaparro, Assemblyman Verrelli and Assemblywoman McKnight**

**SYNOPSIS**

Increases workers' compensation for loss of hand or foot.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Labor Committee on December 9, 2019, with amendments.



**(Sponsorship Updated As Of: 12/17/2019)**

A1110 [1R] DOWNEY, HOUGHTALING

2

1 AN ACT concerning workers' compensation and amending  
2 R.S.34:15-12 <sup>1</sup>**[and P.L.1948, c.446]**<sup>1</sup>.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. R.S.34:15-12 is amended to read as follows:

8 34:15-12. Following is a schedule of compensation:

9 a. For injury producing temporary disability, 70% of the  
10 worker's weekly wages received at the time of the injury, subject to  
11 a maximum compensation of 75% of the average weekly wages  
12 earned by all employees covered by the "unemployment  
13 compensation law" (R.S.43:21-1 et seq.) and a minimum of 20% of  
14 such average weekly wages a week. This compensation shall be  
15 paid during the period of such disability, not however, beyond 400  
16 weeks. The amount of the maximum compensation shall be  
17 computed, determined, rounded out to the nearest dollar, and  
18 promulgated by the Commissioner of Labor and Workforce  
19 Development on or before September 1 in each year based on said  
20 average weekly wages as of the calendar year preceding, and shall  
21 be effective as to injuries occurring in the calendar year following  
22 such promulgation. In any year in which the maximum benefit rate  
23 based upon said computation would not be increased or decreased  
24 beyond \$1.00 in amount, the rate promulgated theretofore shall  
25 continue.

26 b. For disability total in character and permanent in quality,  
27 70% of the weekly wages received at the time of injury, subject to a  
28 maximum and a minimum compensation as stated in subsection a.  
29 of this section. This compensation shall be paid for a period of 450  
30 weeks, at which time compensation payments shall cease unless the  
31 employee shall have submitted to such physical or educational  
32 rehabilitation as may have been ordered by the rehabilitation  
33 commission, and can show that because of such disability it is  
34 impossible for the employee to obtain wages or earnings equal to  
35 those earned at the time of the accident, in which case further  
36 weekly payments shall be made during the period of such disability,  
37 the amount thereof to be the previous weekly compensation  
38 payment diminished by that portion thereof that the wage, or  
39 earnings, the employee is then able to earn, bears to the wages  
40 received at the time of the accident. If the employee's wages or  
41 earnings equal or exceed wages received at the time of the accident,  
42 then the compensation rate shall be reduced to \$5.00. In calculating  
43 compensation for this extension beyond 450 weeks the above  
44 minimum provision shall not apply. This extension of compensation

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALA committee amendments adopted December 9, 2019.

1 payments beyond 450 weeks shall be subject to such periodic  
 2 reconsiderations and extensions as the case may require, and shall  
 3 apply only to disability total in character and permanent in quality,  
 4 and shall not apply to any accident occurring prior to July 4, 1923.

5 c. For disability partial in character and permanent in quality,  
 6 weekly compensation shall be paid based upon 70% of the weekly  
 7 wages received at the time of the injury, subject to a maximum  
 8 compensation per week of 75% of the Statewide average weekly  
 9 wages (SAWW) earned by all employees covered by the  
 10 "unemployment compensation law" (R.S.43:21-1 et seq.) and paid  
 11 in accordance with the following "Disability Wage and  
 12 Compensation Schedule" and a minimum of \$35.00 per week. The  
 13 amount of awards for up to and including 180 weeks shall remain at  
 14 the amounts listed in the "Disability Wage and Compensation  
 15 Schedule" until January 1, 1982. On January 1, 1982, the dollar  
 16 amounts listed for the first 180 weeks in the "Disability Wage and  
 17 Compensation Schedule" shall be replaced by the following  
 18 percentages of the Statewide average weekly wage:

19	\$47-20% of the Statewide	\$61-26% SAWW
20	average weekly	\$63-27% SAWW
21	wages, hereinafter	\$66-28% SAWW
22	referred to as "SAWW"	\$68-29% SAWW
23	\$49-21% SAWW	\$70-30% SAWW
24	\$51-22% SAWW	\$73-31% SAWW
25	\$54-23% SAWW	\$75-32% SAWW
26	\$56-24% SAWW	\$77-33% SAWW
27	\$59-25% SAWW	\$80-34% SAWW
28		\$82-35% SAWW

29 In the event that the 20% limitation for attorney fees as set forth  
 30 in R.S.34:15-64 is reduced to a maximum of 10% before January 1,  
 31 1982, the above schedule shall be effective within 60 days of such  
 32 reduction in attorney fees. All amounts in the "Disability Wage and  
 33 Compensation Schedule" shall be rounded out to the nearest dollar.  
 34 When a claim petition alleges more than one disability, the number  
 35 of weeks in the award shall be determined and entered separately  
 36 for each such disability and the number of weeks for each disability  
 37 shall not be cumulative when entering an award.

38 **DISABILITY WAGE AND COMPENSATION SCHEDULE**

39	Weeks of Allowable	Maximum Weekly Compensation
40	Compensation	Applicable
41	first 90 weeks. . . . .	\$47
42	91 through 96 weeks . .	\$49
43	97 through 102 weeks. .	\$49 for the first 96 weeks then \$51
44		for each remaining week
45	103 through 108 weeks .	\$49 for the first 96 weeks then \$51
46		for the next 6 weeks then \$54 for
47		each remaining week
48	109-114 weeks . . . . .	\$49 for the first 96 weeks then

A1110 [1R] DOWNEY, HOUGHTALING

1                   \$51 for the next 6 weeks then \$54  
2                   for the next 6 weeks then \$56 for  
3                   each remaining week  
4       115-120 weeks . . . . . \$49 for the first 96 weeks  
5                   then \$51 for the next 6 weeks  
6                   then \$54 for the next 6 weeks  
7                   then \$56 for the next 6 weeks  
8                   then \$59 for each remaining week  
9       121-126 weeks . . . . . \$49 for the first 96 weeks  
10                  then \$51 for the next 6 weeks  
11                  then \$54 for the next 6 weeks  
12                  then \$56 for the next 6 weeks  
13                  then \$59 for the next 6 weeks  
14                  then \$61 for each remaining week  
15       127-132 weeks . . . . . \$49 for the first 96 weeks  
16                  then \$51 for the next 6 weeks  
17                  then \$54 for the next 6 weeks  
18                  then \$56 for the next 6 weeks  
19                  then \$59 for the next 6 weeks  
20                  then \$61 for the next 6 weeks  
21                  then \$63 for each remaining week  
22       133-138 weeks . . . . . \$49 for the first 96 weeks  
23                  then \$51 for the next 6 weeks  
24                  then \$54 for the next 6 weeks  
25                  then \$56 for the next 6 weeks  
26                  then \$59 for the next 6 weeks  
27                  then \$61 for the next 6 weeks  
28                  then \$63 for the next 6 weeks  
29                  then \$66 for each remaining week  
30       139-144 weeks . . . . . \$49 for the first 96 weeks  
31                  then \$51 for the next 6 weeks  
32                  then \$54 for the next 6 weeks  
33                  then \$56 for the next 6 weeks  
34                  then \$59 for the next 6 weeks  
35                  then \$61 for the next 6 weeks  
36                  then \$63 for the next 6 weeks  
37                  then \$66 for the next 6 weeks  
38                  then \$68 for each remaining week  
39       145-150 weeks . . . . . \$49 for the first 96 weeks  
40                  then \$51 for the next 6 weeks  
41                  then \$54 for the next 6 weeks  
42                  then \$56 for the next 6 weeks  
43                  then \$59 for the next 6 weeks  
44                  then \$61 for the next 6 weeks  
45                  then \$63 for the next 6 weeks  
46                  then \$66 for the next 6 weeks  
47                  then \$68 for the next 6 weeks  
48                  then \$70 for each remaining week

A1110 [1R] DOWNEY, HOUGHTALING

1 151-156 weeks . . . . \$49 for the first 96 weeks  
2 then \$51 for the next 6 weeks  
3 then \$54 for the next 6 weeks  
4 then \$56 for the next 6 weeks  
5 then \$59 for the next 6 weeks  
6 then \$61 for the next 6 weeks  
7 then \$63 for the next 6 weeks  
8 then \$66 for the next 6 weeks  
9 then \$68 for the next 6 weeks  
10 then \$70 for the next 6 weeks  
11 then \$73 for each remaining week  
12 157-162 weeks . . . . \$49 for the first 96 weeks  
13 then \$51 for the next 6 weeks  
14 then \$54 for the next 6 weeks  
15 then \$56 for the next 6 weeks  
16 then \$59 for the next 6 weeks  
17 then \$61 for the next 6 weeks  
18 then \$63 for the next 6 weeks  
19 then \$66 for the next 6 weeks  
20 then \$68 for the next 6 weeks  
21 then \$70 for the next 6 weeks  
22 then \$73 for the next 6 weeks  
23 then \$75 for each remaining week  
24 163-168 weeks . . . . \$49 for the first 96 weeks  
25 then \$51 for the next 6 weeks  
26 then \$54 for the next 6 weeks  
27 then \$56 for the next 6 weeks  
28 then \$59 for the next 6 weeks  
29 then \$61 for the next 6 weeks  
30 then \$63 for the next 6 weeks  
31 then \$66 for the next 6 weeks  
32 then \$68 for the next 6 weeks  
33 then \$70 for the next 6 weeks  
34 then \$73 for the next 6 weeks  
35 then \$75 for the next 6 weeks  
36 then \$77 for each remaining week  
37 169-174 weeks . . . . \$49 for the first 96 weeks  
38 then \$51 for the next 6 weeks  
39 then \$54 for the next 6 weeks  
40 then \$56 for the next 6 weeks  
41 then \$59 for the next 6 weeks  
42 then \$61 for the next 6 weeks  
43 then \$63 for the next 6 weeks  
44 then \$66 for the next 6 weeks  
45 then \$68 for the next 6 weeks  
46 then \$70 for the next 6 weeks  
47 then \$73 for the next 6 weeks  
48 then \$75 for the next 6 weeks



- 1           10. Foot. . . . . <sup>1</sup>~~230~~ 250<sup>1</sup>
- 2                 except that, in the event that the loss of function of the foot
- 3                 is determined to be equal to or greater than a 25% loss of use
- 4                 of the foot, the award shall be calculated based on <sup>1</sup>~~275~~
- 5                 285<sup>1</sup> weeks of compensation.
- 6           11. Leg . . . . . 315
- 7           12. The loss of the first phalange of the thumb or of any finger
- 8 shall be considered to be equal to the loss of 1/2 of such thumb or
- 9 finger, and the compensation shall be for 1/2 of the periods of time
- 10 above specified. The loss of any portion of the thumb or any finger
- 11 between the terminal joint and the end thereof shall be compensated
- 12 for a like proportion of the period of time prescribed for the loss of
- 13 the first phalange of such member.
- 14           13. The loss of the first phalange and any portion of the second
- 15 shall be considered as the loss of the entire finger or thumb, but in
- 16 no case shall the amount received for more than one finger exceed
- 17 the amount provided in this schedule for the loss of a hand.
- 18           14. The loss of the first phalange of any toe shall be considered
- 19 to be equal to the loss of 1/2 of such toe, and compensation shall be
- 20 for 1/2 of the period of time above specified.
- 21           15. The loss of the first phalange and any portion of the second
- 22 shall be considered as the loss of the entire toe.
- 23           16. For the loss of vision of an eye, 200 weeks.
- 24           17. For the enucleation of an eye, 25 weeks, in addition to such
- 25 compensation, if any, as may be allowable under paragraph 16 of
- 26 this subsection.
- 27           18. For the loss of a natural tooth, four weeks for each tooth
- 28 lost.
- 29           19. For the total loss of hearing in one ear, 60 weeks. For the
- 30 total loss of hearing in both ears by one accident, 200 weeks.
- 31           20. The loss of both hands, or both arms, or both feet, or both
- 32 legs, or both eyes, or any two thereof as the result of any one
- 33 accident, shall constitute total and permanent disability to be
- 34 compensated according to the provisions of subsection b. of this
- 35 section.
- 36           21. Amputation between the elbow and the wrist shall be
- 37 considered as the equivalent of the loss of a hand and amputation at
- 38 the elbow shall be considered equivalent to the loss of the arm.
- 39 Amputation between the knee and ankle shall be considered as the
- 40 equivalent of the loss of a foot, and amputation at the knee shall be
- 41 considered equivalent to the loss of the leg. An additional amount
- 42 of 30% of the amputation award shall be added to that award to
- 43 compute the total award made in amputations of body members,
- 44 provided, however, that this additional amount shall not be subject
- 45 to legal fees. <sup>1</sup>An award of permanent total disability shall not bar
- 46 an additional amount from being added to an amputation award.
- 47 The amount of the additional award shall not be subject to

1 subrogation pursuant to R.S.34:15-40, as it shall not be considered a  
2 payment of compensation except for rating purposes.<sup>1</sup>

3 22. In all lesser or other cases involving permanent loss, or  
4 where the usefulness of a member of any physical function is  
5 permanently impaired, the duration of compensation shall bear such  
6 relation to the specific periods of time stated in the above schedule  
7 as the disabilities bear to those produced by the injuries named in  
8 the schedule. In cases in which the disability is determined as a  
9 percentage of total and permanent disability, the duration of the  
10 compensation shall be a corresponding portion of 600 weeks.  
11 Should the employer and employee be unable to agree upon the  
12 amount of compensation to be paid in cases not covered by the  
13 schedule, either party may appeal to the Division of Workers'  
14 Compensation for a settlement of the controversy.

15 23. Where there is a traumatic hernia, compensation will be  
16 allowed if notice thereof is given by the claimant to the employer  
17 within 48 hours after the occurrence of the hernia but any Sunday,  
18 Saturday or holiday shall be excluded from this 48-hour period.

19 d. If previous loss of function to the body, head, a member or  
20 an organ is established by competent evidence, and subsequently an  
21 injury or occupational disease arising out of and in the course of an  
22 employment occurs to that part of the body, head, member or organ,  
23 where there was a previous loss of function, then the employer or  
24 the employer's insurance carrier at the time of the subsequent injury  
25 or occupational disease shall not be liable for any such loss and  
26 credit shall be given the employer or the employer's insurance  
27 carrier for the previous loss of function and the burden of proof in  
28 such matters shall rest on the employer.

29 e. In case of the death of the person from any cause other than  
30 the accident or occupational disease, during the period of payments  
31 for permanent injury, the remaining payments shall be paid to such  
32 of the deceased person's dependents as are included in the  
33 provisions of R.S.34:15-13 or, if no dependents, the remaining  
34 amount due, but not exceeding <sup>1</sup>【\$3,500.00】 \$5,000<sup>1</sup>, shall be paid  
35 in a lump sum to the proper person for burial and funeral expenses;  
36 but no compensation shall be due any other person than the injured  
37 employee on account of compensation being paid in excess of 450  
38 weeks on account of disability total in character and permanent in  
39 quality as provided by subsection b. of this section.

40 (cf: P.L.1990, c.122, s.1)

41

42 <sup>1</sup>【2. Section 3 of P.L.1948, c.446 (C.34:1A-3) is amended to  
43 read as follows:

44 3. The commissioner, as head of the department, shall:

45 (a) Administer the work of the department;

46 (b) Appoint and remove officers and other personnel employed  
47 within the department, subject to the provisions of 【Title 11 of the  
48 Revised Statutes】 Title 11A of the New Jersey Statutes, Civil

- 1 Service, and other applicable statutes, except as herein otherwise  
2 specifically provided;
- 3 (c) Perform, exercise and discharge the functions, powers and  
4 duties of the department through such divisions as may be  
5 established by this act or otherwise by law;
- 6 (d) Organize the work of the department in such divisions, not  
7 inconsistent with the provisions of this act and in such bureaus and  
8 other organizational units as he may determine to be necessary for  
9 efficient and effective operation;
- 10 (e) Adopt, issue and promulgate, in the name of the department,  
11 such rules and regulations as may be authorized by law;
- 12 (f) Formulate and adopt rules and regulations for the efficient  
13 conduct of the work and general administration of the department,  
14 its officers and employees;
- 15 (g) Institute or cause to be instituted such legal proceedings or  
16 processes as may be necessary properly to enforce and give effect to  
17 any of his powers or duties;
- 18 (h) Make an annual report to the Governor and to the  
19 Legislature of the department's operations, and render such other  
20 reports as the Governor shall from time to time request or as may be  
21 required by law;
- 22 (i) Co-ordinate the activities of the department, and the several  
23 divisions and other agencies therein, in a manner designed to  
24 eliminate overlapping and duplicating functions;
- 25 (j) Integrate within the department, so far as practicable, all  
26 staff services of the department and of the several divisions and  
27 other agencies therein; **[and]**
- 28 (k) Study, in consultation with the Commissioner of Banking  
29 and Insurance, the State's workers' compensation system and make  
30 recommendations that will help foster and maintain an efficient,  
31 effective and well-balanced workers' compensation program that is  
32 equally responsive to the needs of both the State's workforce and  
33 the employer community, and submit a study, with  
34 recommendations, to the Governor and the Legislature not later than  
35 one year after the effective date of P.L. , c. (pending before the  
36 Legislature as this bill), and every five years thereafter; and
- 37 (l) Perform such other functions as may be prescribed in this act  
38 or by any other law.
- 39 (cf: P.L.1948, c.446, s.3)<sup>1</sup>
- 40

41 <sup>1</sup>**[3.] 2.**<sup>1</sup> This act shall take effect immediately.