

SENATE, No. 782

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Increases workers' compensation for loss of hand or foot; requires Commissioner of Labor and Workforce Development to study effectiveness of workers' compensation program.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee with technical review.



(Sponsorship Updated As Of: 5/11/2018)

1 AN ACT concerning workers' compensation and amending
2 R.S.34:15-12 and P.L.1948, c.446.

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
45 payments beyond 450 weeks shall be subject to such periodic

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.

1 reconsiderations and extensions as the case may require, and shall
 2 apply only to disability total in character and permanent in quality,
 3 and shall not apply to any accident occurring prior to July 4, 1923.

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

18	\$47-20% of the Statewide	\$61-26% SAWW
19	average weekly	\$63-27% SAWW
20	wages, hereinafter	\$66-28% SAWW
21	referred to as "SAWW"	\$68-29% SAWW
22	\$49-21% SAWW	\$70-30% SAWW
23	\$51-22% SAWW	\$73-31% SAWW
24	\$54-23% SAWW	\$75-32% SAWW
25	\$56-24% SAWW	\$77-33% SAWW
26	\$59-25% SAWW	\$80-34% SAWW
27		\$82-35% SAWW

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

37
 38 **DISABILITY WAGE AND COMPENSATION SCHEDULE**

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

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1 each remaining week
2 109-114 weeks \$49 for the first 96 weeks then
3 \$51 for the next 6 weeks then \$54
4 for the next 6 weeks then \$56 for
5 each remaining week
6 115-120 weeks \$49 for the first 96 weeks
7 then \$51 for the next 6 weeks
8 then \$54 for the next 6 weeks
9 then \$56 for the next 6 weeks
10 then \$59 for each remaining week
11 121-126 weeks \$49 for the first 96 weeks
12 then \$51 for the next 6 weeks
13 then \$54 for the next 6 weeks
14 then \$56 for the next 6 weeks
15 then \$59 for the next 6 weeks
16 then \$61 for each remaining week
17 127-132 weeks \$49 for the first 96 weeks
18 then \$51 for the next 6 weeks
19 then \$54 for the next 6 weeks
20 then \$56 for the next 6 weeks
21 then \$59 for the next 6 weeks
22 then \$61 for the next 6 weeks
23 then \$63 for each remaining week
24 133-138 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 each remaining week
32 139-144 weeks \$49 for the first 96 weeks
33 then \$51 for the next 6 weeks
34 then \$54 for the next 6 weeks
35 then \$56 for the next 6 weeks
36 then \$59 for the next 6 weeks
37 then \$61 for the next 6 weeks
38 then \$63 for the next 6 weeks
39 then \$66 for the next 6 weeks
40 then \$68 for each remaining week
41 145-150 weeks \$49 for the first 96 weeks
42 then \$51 for the next 6 weeks
43 then \$54 for the next 6 weeks
44 then \$56 for the next 6 weeks
45 then \$59 for the next 6 weeks
46 then \$61 for the next 6 weeks
47 then \$63 for the next 6 weeks
48 then \$66 for the next 6 weeks

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

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1		then \$73 for the next 6 weeks
2		then \$75 for the next 6 weeks
3		then \$77 for the next 6 weeks
4		then \$80 for each remaining week
5	175-180 weeks	\$49 for the first 96 weeks
6		then \$51 for the next 6 weeks
7		then \$54 for the next 6 weeks
8		then \$56 for the next 6 weeks
9		then \$59 for the next 6 weeks
10		then \$61 for the next 6 weeks
11		then \$63 for the next 6 weeks
12		then \$66 for the next 6 weeks
13		then \$68 for the next 6 weeks
14		then \$70 for the next 6 weeks
15		then \$73 for the next 6 weeks
16		then \$75 for the next 6 weeks
17		then \$77 for the next 6 weeks
18		then \$80 for the next 6 weeks
19		then \$82 for each remaining week
20	181-210 weeks	35% of the Statewide average
21		weekly wages, hereinafter referred
22		to as "SAWW"
23	211-240 weeks	40% of SAWW
24	241-270 weeks	45% of SAWW
25	271-300 weeks	50% of SAWW
26	301-330 weeks	55% of SAWW
27	331-360 weeks	60% of SAWW
28	361-390 weeks	65% of SAWW
29	391-420 weeks	70% of SAWW
30	421-600 weeks	75% of SAWW

31 Said compensation shall be expressly subject to the provisions
32 of R.S.34:15-37, and shall be paid to the employee for the period
33 named in the following schedule (paragraphs 1 to 23 inclusive):

34	Lost Member	Number of Weeks'
35		Compensation
36	1. Thumb	75
37	2. First finger (commonly called index finger). . .	50
38	3. Second finger	40
39	4. Third finger.	30
40	5. Fourth finger (commonly called little finger) . .	20
41	6. Great toe	40
42	7. Toe, other than a great toe.	15
43	8. Hand, or thumb and first and second fingers	
44	(on one hand) or four fingers (on one hand). . .	245

45 except that, in the event that the loss of function of the
46 hand is determined to be equal to or greater than a 25%
47 loss of use of the hand, the award shall be calculated
48 based on 300 weeks of compensation.

- 1 9. Arm 330
- 2 10. Foot. 230
- 3 except that, in the event that the loss of function of the foot
- 4 is determined to be equal to or greater than a 25% loss of use
- 5 of the foot, the award shall be calculated based on 275
- 6 weeks of compensation.
- 7 11. Leg 315
- 8 12. The loss of the first phalange of the thumb or of any finger
- 9 shall be considered to be equal to the loss of 1/2 of such thumb or
- 10 finger, and the compensation shall be for 1/2 of the periods of time
- 11 above specified. The loss of any portion of the thumb or any finger
- 12 between the terminal joint and the end thereof shall be compensated
- 13 for a like proportion of the period of time prescribed for the loss of
- 14 the first phalange of such member.
- 15 13. The loss of the first phalange and any portion of the second
- 16 shall be considered as the loss of the entire finger or thumb, but in
- 17 no case shall the amount received for more than one finger exceed
- 18 the amount provided in this schedule for the loss of a hand.
- 19 14. The loss of the first phalange of any toe shall be considered
- 20 to be equal to the loss of 1/2 of such toe, and compensation shall be
- 21 for 1/2 of the period of time above specified.
- 22 15. The loss of the first phalange and any portion of the second
- 23 shall be considered as the loss of the entire toe.
- 24 16. For the loss of vision of an eye, 200 weeks.
- 25 17. For the enucleation of an eye, 25 weeks, in addition to such
- 26 compensation, if any, as may be allowable under paragraph 16 of
- 27 this subsection.
- 28 18. For the loss of a natural tooth, four weeks for each tooth
- 29 lost.
- 30 19. For the total loss of hearing in one ear, 60 weeks. For the
- 31 total loss of hearing in both ears by one accident, 200 weeks.
- 32 20. The loss of both hands, or both arms, or both feet, or both
- 33 legs, or both eyes, or any two thereof as the result of any one
- 34 accident, shall constitute total and permanent disability to be
- 35 compensated according to the provisions of subsection b. of this
- 36 section.
- 37 21. Amputation between the elbow and the wrist shall be
- 38 considered as the equivalent of the loss of a hand and amputation at
- 39 the elbow shall be considered equivalent to the loss of the arm.
- 40 Amputation between the knee and ankle shall be considered as the
- 41 equivalent of the loss of a foot, and amputation at the knee shall be
- 42 considered equivalent to the loss of the leg. An additional amount
- 43 of 30% of the amputation award shall be added to that award to
- 44 compute the total award made in amputations of body members,
- 45 provided, however, that this additional amount shall not be subject
- 46 to legal fees.
- 47 22. In all lesser or other cases involving permanent loss, or
- 48 where the usefulness of a member of any physical function is

1 permanently impaired, the duration of compensation shall bear such
2 relation to the specific periods of time stated in the above schedule
3 as the disabilities bear to those produced by the injuries named in
4 the schedule. In cases in which the disability is determined as a
5 percentage of total and permanent disability, the duration of the
6 compensation shall be a corresponding portion of 600 weeks.
7 Should the employer and employee be unable to agree upon the
8 amount of compensation to be paid in cases not covered by the
9 schedule, either party may appeal to the Division of Workers'
10 Compensation for a settlement of the controversy.

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

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

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

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

37

38 2. Section 3 of P.L.1948, c.446 (C.34:1A-3) is amended to read
39 as follows:

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

41 (a) Administer the work of the department;

42 (b) Appoint and remove officers and other personnel employed
43 within the department, subject to the provisions of **【Title 11 of the**
44 **Revised Statutes】** Title 11A of the New Jersey Statutes, Civil
45 Service, and other applicable statutes, except as herein otherwise
46 specifically provided;

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