

ASSEMBLY, No. 2334

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 19, 1996

By Assemblyman WOLFE

1 **AN ACT** concerning workers' compensation, amending R.S.34:15-36
2 and supplementing chapter 15 of Title 34 of the Revised Statutes.
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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6 1. R.S.34:15-36 is amended to read as follows:

7 34:15-36. "Willful negligence" within the intent of this chapter
8 shall consist of (1) deliberate act or deliberate failure to act, or (2)
9 such conduct as evidences reckless indifference to safety, or (3)
10 intoxication, operating as the proximate cause of injury, or (4)
11 unlawful use of a controlled dangerous substance as defined in the
12 "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
13 (C.24:21-1 et seq.).

14 "Employer" is declared to be synonymous with master, and includes
15 natural persons, partnerships, and corporations; "employee" is
16 synonymous with servant, and includes all natural persons, including
17 officers of corporations, who perform service for an employer for
18 financial consideration, exclusive of (1) employees eligible under the
19 federal "Longshore and Harbor Workers' Compensation Act," 44 Stat.
20 1424 (33 U.S.C. §901 et seq.), for benefits payable with respect to
21 accidental death or injury, or occupational disease or infection; and (2)
22 casual employments, which shall be defined, if in connection with the
23 employer's business, as employment the occasion for which arises by
24 chance or is purely accidental; or if not in connection with any
25 business of the employer, as employment not regular, periodic or
26 recurring; provided, however, that forest fire wardens and forest
27 firefighters employed by the State of New Jersey shall, in no event, be
28 deemed casual employees. Notwithstanding any other provision of law
29 to the contrary, a self-employed person, a partner of a limited liability
30 partnership, a member of a limited liability company or a general
31 partner of a partnership may be included as an insured entitled to all
32 policy benefits in a compensation insurance policy if the self-employed
33 person, partner or member files a notice of election of coverage with

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

Matter underlined thus is new matter.

1 the insurance carrier on a form prescribed by the Commissioner of
2 Banking and Insurance. This election of coverage shall be final and
3 binding upon a self-employed person, partner or member until revoked
4 by the self-employed person, limited liability partnership, limited
5 liability company or partnership.

6 Employment shall be deemed to commence when an employee
7 arrives at the employer's place of employment to report for work and
8 shall terminate when the employee leaves the employer's place of
9 employment, excluding areas not under the control of the employer;
10 provided, however, when the employee is required by the employer to
11 be away from the employer's place of employment, the employee shall
12 be deemed to be in the course of employment when the employee is
13 engaged in the direct performance of duties assigned or directed by the
14 employer; but the employment of employee paid travel time by an
15 employer for time spent traveling to and from a job site or of any
16 employee who utilizes an employer authorized vehicle shall commence
17 and terminate with the time spent traveling to and from a job site or
18 the authorized operation of a vehicle on business authorized by the
19 employer. Travel by a policeman, fireman, or a member of a first aid
20 or rescue squad, in responding to and returning from an emergency,
21 shall be deemed to be in the course of employment.

22 Employment shall also be deemed to commence when an employee
23 is traveling in a ridesharing arrangement between his or her place of
24 residence or terminal near such place and his or her place of
25 employment, if one of the following conditions is satisfied: the
26 vehicle used in the ridesharing arrangement is owned, leased or
27 contracted for by the employer, or the employee is required by the
28 employer to travel in a ridesharing arrangement as a condition of
29 employment.

30 "Disability permanent in quality and partial in character" means a
31 permanent impairment caused by a compensable accident or
32 compensable occupational disease, based upon demonstrable objective
33 medical evidence, which restricts the function of the body or of its
34 members or organs; included in the criteria which shall be considered
35 shall be whether there has been a lessening to a material degree of an
36 employee's working ability. Subject to the above provisions, nothing
37 in this definition shall be construed to preclude benefits to a worker
38 who returns to work following a compensable accident even if there
39 be no reduction in earnings. Injuries such as minor lacerations, minor
40 contusions, minor sprains, and scars which do not constitute
41 significant permanent disfigurement, and occupational disease of a
42 minor nature such as mild dermatitis and mild bronchitis shall not
43 constitute permanent disability within the meaning of this definition.

44 "Disability permanent in quality and total in character" means a
45 physical or neuropsychiatric total permanent impairment caused by a
46 compensable accident or compensable occupational disease, where no

1 fundamental or marked improvement in such condition can be
2 reasonably expected.

3 Factors other than physical and neuropsychiatric impairments may
4 be considered in the determination of permanent total disability, where
5 such physical and neuropsychiatric impairments constitute at least 75%
6 or higher of total disability.

7 "Ridesharing" means the transportation of persons in a motor
8 vehicle, with a maximum carrying capacity of not more than 15
9 passengers, including the driver, where such transportation is
10 incidental to the purpose of the driver. This term shall include such
11 ridesharing arrangements known as carpools and vanpools.

12 "Medical services, medical treatment, physicians' services and
13 physicians' treatment" shall include, but not be limited to, the services
14 which a chiropractor is authorized by law to perform and which are
15 authorized by an employer pursuant to the provisions of R.S.34:15-1
16 et seq.

17 (cf: P.L.1994, c.74, s.1)

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19 2. (New section) A certificate of insurance for compensation
20 insurance issued by an insurance carrier to an employer shall state on
21 the certificate, or on a list attached thereto, those self-employed
22 persons, partners of a limited liability partnership, members of a
23 limited liability company and general partners of a partnership, but not
24 including limited partners, who have elected compensation insurance
25 coverage pursuant to R.S.34:15-36 and are covered under the policy.
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27 3. This act shall take effect on the 60th day following enactment
28 and apply to all policies issued on or after that date.
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31 STATEMENT

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33 This bill amends the workers' compensation law, R.S.34:15-1 et
34 seq., to allow a self-employed person, partners of a limited liability
35 partnership, members of a limited liability company and general
36 partners of a partnership to elect workers' compensation coverage for
37 themselves.

38 Current law does not permit self-employed persons, partners of a
39 limited liability partnership, members of a limited liability company and
40 general partners to receive workers' compensation benefits, which
41 historically have been intended for employees rather than business
42 owners. Nevertheless, as a practical matter, self-employed persons,
43 limited liability partnerships, limited liability companies and
44 partnerships with employees are required by law to purchase workers'
45 compensation coverage; and some self-employed persons, limited
46 liability partnerships, limited liability companies and partnerships with

1 no employees are compelled to purchase workers' compensation
2 insurance in order to qualify to perform work in many common
3 business transactions, even though the policy provides no benefits to
4 anyone. The bill would provide the opportunity for these
5 self-employed persons, partners and members to elect to be covered
6 in these circumstances and thus to qualify for workers' compensation
7 benefits in the event of a work-related injury. The bill would not,
8 however, compel purchase of a workers' compensation policy by such
9 businesses with no employees. Any election would be binding on the
10 self-employed person, limited liability partnership, limited liability
11 company or partnership until revoked.

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16 Permits self-employed persons, partners of limited liability
17 partnerships, members of limited liability companies and general
18 partners of partnerships to be eligible for workers' compensation.