

SENATE, No. 672

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 5, 1996

By Senator ADLER

1 AN ACT concerning workers' compensation and amending
2 R.S.34:15-36.

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

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

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

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

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 of Insurance. This election of coverage shall be final and binding upon
2 a self-employed person or partner until revoked by the self-employed
3 person or partnership.

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

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

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

42 "Disability permanent in quality and total in character" means a
43 physical or neuropsychiatric total permanent impairment caused by a
44 compensable accident or compensable occupational disease, where no
45 fundamental or marked improvement in such condition can be
46 reasonably expected.

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

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

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

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

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17 2. This act shall take effect on the 60th day following enactment
18 and apply to all policies issued on or after that date.

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21 STATEMENT

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23 This bill amends the workers' compensation law, R.S.34:15-1 et
24 seq., to provide that self-employed persons and general partners of
25 businesses be offered the opportunity to elect workers' compensation
26 coverage for themselves.

27 Current law does not permit self-employed persons and general
28 partners to receive workers' compensation benefits, which historically
29 have been intended for employees rather than business owners.
30 Nevertheless, as a practical matter, self-employed persons and
31 partnerships with employees are required by law to purchase workers'
32 compensation coverage; and some self-employed persons and
33 partnerships with no employees are compelled to purchase workers'
34 compensation insurance in order to qualify to perform work in many
35 common business transactions, even though the policy provides no
36 benefits to anyone. The bill would provide the opportunity for these
37 self-employed persons and partners to elect to be covered in these
38 circumstances and thus to qualify for workers' compensation benefits
39 in the event of a work-related injury. The bill would not, however,
40 compel purchase of a workers' compensation policy by such businesses
41 with no employees.

42 Any election would be binding on the self-employed person or
43 partnership until revoked.

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3 Permits self-employed persons and partners to be eligible for workers'
4 compensation.