

ASSEMBLY, No. 2499

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MARCH 13, 2008

Sponsored by:

Assemblyman JOSEPH V. EGAN

District 17 (Middlesex and Somerset)

SYNOPSIS

Increases certain workers' compensation benefits.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/23/2008)

1 AN ACT increasing certain workers' compensation benefits and
2 amending R.S.34:15-12.

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%]** 100% of the Statewide average
12 weekly wages (SAWW) earned by all employees covered by the
13 "unemployment compensation law" (R.S.43:21-1 et seq.) and a
14 minimum of 20% of such average weekly wages a week. This
15 compensation shall be paid during the period of such disability, not
16 however, beyond 400 weeks. The amount of the maximum
17 compensation shall be computed, determined, rounded out to the
18 nearest dollar, and promulgated by the Commissioner of Labor and
19 Workforce Development on or before September 1 in each year
20 based on said average weekly wages as of the calendar year
21 preceding, and shall be effective as to injuries occurring in the
22 calendar year following such promulgation. In any year in which
23 the maximum benefit rate based upon said computation would not
24 be increased or decreased beyond \$1.00 in amount, the rate
25 promulgated theretofore shall continue.

26 b. For disability total in character and permanent in quality, 70%
27 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%~~ 100% of the Statewide average
8 weekly 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

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		

30 In the event that the 20% limitation for attorney fees as set forth
31 in R.S.34:15-64 is reduced to a maximum of 10% before January 1,
32 1982, the above schedule shall be effective within 60 days of such
33 reduction in attorney fees. All amounts in the "Disability Wage
34 and Compensation Schedule" shall be rounded out to the nearest
35 dollar. When a claim petition alleges more than one disability, the
36 number of weeks in the award shall be determined and entered
37 separately for each such disability and the number of weeks for
38 each disability shall not be cumulative when entering an award.
39

40 DISABILITY WAGE AND COMPENSATION SCHEDULE

41		
42	Weeks of Allowable	Maximum Weekly
43	Compensation	Compensation Applicable
44	First 90 weeks.	20% <u>20%</u> of SAWW
45	91 through 96 weeks	21% <u>21%</u> of SAWW
46	102 weeks .	21% <u>21%</u> of SAWW for the first 96 weeks
47		then 22% <u>22%</u> of SAWW for each remaining week

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1 103 through 108 weeks **[\$49]** 21% of SAWW for the first 96 weeks
2 then **[\$51]** 22% of SAWW for the next 6 weeks
3 then **[\$54]** 23% of SAWW for each remaining week
4 109-114 weeks **[\$49]** 21% of SAWW for the first 96 weeks
5 then **[\$51]** 22% of SAWW for the next 6 weeks
6 then **[\$54]** 23% of SAWW for the next 6 weeks
7 then **[\$56]** 24% of SAWW for each remaining week
8 115-120 weeks **[\$49]** 21% of SAWW for the first 96 weeks
9 then **[\$51]** 22% of SAWW for the next 6 weeks
10 then **[\$54]** 23% of SAWW for the next 6 weeks
11 then **[\$56]** 24% of SAWW for the next 6 weeks
12 then **[\$59]** 25% of SAWW for each remaining week
13 121-126 weeks **[\$49]** 21% of SAWW for the first 96 weeks
14 then **[\$51]** 22% of SAWW for the next 6 weeks
15 then **[\$54]** 23% of SAWW for the next 6 weeks
16 then **[\$56]** 24% of SAWW for the next 6 weeks
17 then **[\$59]** 25% of SAWW for the next 6 weeks
18 then **[\$61]** 26% of SAWW for each remaining week
19 127-132 weeks **[\$49]** 21% of SAWW for the first 96 weeks
20 then **[\$51]** 22% of SAWW for the next 6 weeks
21 then **[\$54]** 23% of SAWW for the next 6 weeks
22 then **[\$56]** 24% of SAWW for the next 6 weeks
23 then **[\$59]** 25% of SAWW for the next 6 weeks
24 then **[\$61]** 26% of SAWW for the next 6 weeks
25 then **[\$63]** 27% of SAWW for each remaining week
26 133-138 weeks **[\$49]** 21% of SAWW for the first 96 weeks
27 then **[\$51]** 22% of SAWW for the next 6 weeks
28 then **[\$54]** 23% of SAWW for the next 6 weeks
29 then **[\$56]** 24% of SAWW for the next 6 weeks
30 then **[\$59]** 25% of SAWW for the next 6 weeks
31 then **[\$61]** 26% of SAWW for the next 6 weeks
32 then **[\$63]** 27% of SAWW for the next 6 weeks
33 then **[\$66]** 28% of SAWW for the next 6 weeks
34 139-144 weeks **[\$49]** 21% of SAWW for the first 96 weeks
35 then **[\$51]** 22% of SAWW for the next 6 weeks
36 then **[\$54]** 23% of SAWW for the next 6 weeks
37 then **[\$56]** 24% of SAWW for the next 6 weeks
38 then **[\$59]** 25% of SAWW for the next 6 weeks
39 then **[\$61]** 26% of SAWW for the next 6 weeks
40 then **[\$63]** 27% of SAWW for the next 6 weeks
41 then **[\$66]** 28% of SAWW for the next 6 weeks
42 then **[\$68]** 29% of SAWW for each remaining week
43 145-150 weeks **[\$49]** 21% of SAWW for the first 96 weeks
44 then **[\$51]** 22% of SAWW for the next 6 weeks

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

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1 169-174 weeks**[\$49]** 21% of SAWW for the first 96 weeks
2 then **[\$51]** 22% of SAWW for the next 6 weeks
3 then **[\$54]** 23% of SAWW for the next 6 weeks
4 then **[\$56]** 24% of SAWW for the next 6 weeks
5 then **[\$59]** 25% of SAWW for the next 6 weeks
6 then **[\$61]** 26% of SAWW for the next 6 weeks
7 then **[\$63]** 27% of SAWW for the next 6 weeks
8 then **[\$66]** 28% of SAWW for the next 6 weeks
9 then **[\$68]** 29% of SAWW for the next 6 weeks
10 then **[\$70]** 30% of SAWW for the next 6 weeks
11 then **[\$73]** 31% of SAWW for the next 6 weeks
12 then **[\$75]** 32% of SAWW for the next 6 weeks
13 then **[\$77]** 33% of SAWW for the next 6 weeks
14 then **[\$80]** 34% of SAWW for each remaining week
15 175-180 weeks**[\$49]** 21% of SAWW for the first 96 weeks
16 then **[\$51]** 22% of SAWW for the next 6 weeks
17 then **[\$54]** 23% of SAWW for the next 6 weeks
18 then **[\$56]** 24% of SAWW for the next 6 weeks
19 then **[\$59]** 25% of SAWW for the next 6 weeks
20 then **[\$61]** 26% of SAWW for the next 6 weeks
21 then **[\$63]** 27% of SAWW for the next 6 weeks
22 then **[\$66]** 28% of SAWW for the next 6 weeks
23 then **[\$68]** 29% of SAWW for the next 6 weeks
24 then **[\$70]** 30% of SAWW for the next 6 weeks
25 then **[\$73]** 31% of SAWW for the next 6 weeks
26 then **[\$75]** 32% of SAWW for the next 6 weeks
27 then **[\$77]** 33% of SAWW for the next 6 weeks
28 then **[\$80]** 34% of SAWW for the next 6 weeks
29 then **[\$82]** 35% of SAWW for each remaining week
30 181-210 weeks35% of **[the Statewide average weekly wages,**
31 **hereinafter referred to as "SAWW"]** SAWW
32 211-240 weeks 40% of SAWW
33 241-270 weeks 45% of SAWW
34 271-300 weeks 50% of SAWW
35 301-330 weeks 55% of SAWW
36 331-360 weeks 60% of SAWW
37 361-390 weeks 65% of SAWW
38 391-420 weeks 70% of SAWW
39 **[421-600]** 421-450 weeks ..75% of SAWW
40 451-480 weeks 80% of SAWW
41 481-510 weeks 85% of SAWW
42 511-540 weeks 90% of SAWW
43 541-570 weeks 95% of SAWW
44 571-600 weeks100% of SAWW

1 Said compensation shall be expressly subject to the provisions of
2 R.S.34:15-37, and shall be paid to the employee for the period
3 named in the following schedule (paragraphs 1 to 23 inclusive):
4

5 Lost Member	6 Number of Weeks' 7 Compensation
8 1. Thumb	9 75
10 2. First finger (commonly called index finger). . . .	11 50
12 3. Second finger	13 40
14 4. Third finger.	15 30
16 5. Fourth finger (commonly called little finger) . . .	17 20
18 6. Great toe	19 40
20 7. Toe, other than a great toe.	21 15
22 8. Hand, or thumb and first and second fingers 23 (on one hand) or four fingers (on one hand). . . .	24 245
25 9. Arm	26 330
27 10. Foot.	28 230
29 11. Leg	30 315

31 12. The loss of the first phalange of the thumb or of any finger
32 shall be considered to be equal to the loss of 1/2 of such thumb or
33 finger, and the compensation shall be for 1/2 of the periods of time
34 above specified. The loss of any portion of the thumb or any finger
35 between the terminal joint and the end thereof shall be compensated
36 for a like proportion of the period of time prescribed for the loss of
37 the first phalange of such member.

38 13. The loss of the first phalange and any portion of the second
39 shall be considered as the loss of the entire finger or thumb, but in
40 no case shall the amount received for more than one finger exceed
41 the amount provided in this schedule for the loss of a hand.

42 14. The loss of the first phalange of any toe shall be considered
43 to be equal to the loss of 1/2 of such toe, and compensation shall be
44 for 1/2 of the period of time above specified.

45 15. The loss of the first phalange and any portion of the second
46 shall be considered as the loss of the entire toe.

47 16. For the loss of vision of an eye, 200 weeks.

48 17. For the enucleation of an eye, 25 weeks, in addition to such
compensation, if any, as may be allowable under paragraph 16 of
this subsection.

For the loss of a natural tooth, four weeks for each tooth
lost.

19. For the total loss of hearing in one ear, 60 weeks. For the
total loss of hearing in both ears by one accident, 200 weeks.

20. The loss of both hands, or both arms, or both feet, or both
legs, or both eyes, or any two thereof as the result of any one
accident, shall constitute total and permanent disability to be
compensated according to the provisions of subsection b. of this
section.

1 21. Amputation between the elbow and the wrist shall be
2 considered as the equivalent of the loss of a hand and amputation at
3 the elbow shall be considered equivalent to the loss of the arm.
4 Amputation between the knee and ankle shall be considered as the
5 equivalent of the loss of a foot, and amputation at the knee shall be
6 considered equivalent to the loss of the leg. An additional amount
7 of 30% of the amputation award shall be added to that award to
8 compute the total award made in amputations of body members,
9 provided, however, that this additional amount shall not be subject
10 to legal fees.

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

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

27 d. If previous loss of function to the body, head, a member or
28 an organ is established by competent evidence, and subsequently an
29 injury or occupational disease arising out of and in the course of an
30 employment occurs to that part of the body, head, member or organ,
31 where there was a previous loss of function, then the employer or
32 the employer's insurance carrier at the time of the subsequent injury
33 or occupational disease shall not be liable for any such loss and
34 credit shall be given the employer or the employer's insurance
35 carrier for the previous loss of function and the burden of proof in
36 such matters shall rest on the employer.

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

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

1 2. This act shall take effect immediately.

2

3

4

STATEMENT

5

6 This bill increases the maximum weekly workers' compensation
7 benefit level for temporary disability and total permanent disability
8 from 75% to 100% of the average weekly wage for all workers in
9 the State (the State average weekly wage, or "SAWW"). The bill
10 increases the maximum weekly benefit level for any partial
11 permanent disability compensable for more than 450 weeks in steps
12 of 5% of the SAWW up to a level of 100% of the SAWW for a
13 worker who has a partial permanent disability compensable for 571
14 to 600 weeks.