

SENATE, No. 948

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JANUARY 27, 2020

Sponsored by:

Senator CHRISTOPHER J. CONNORS

District 9 (Atlantic, Burlington and Ocean)

SYNOPSIS

Prevents intoxicated employees from receiving workers' compensation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT preventing intoxicated employees from receiving workers'
2 compensation and amending R.S.34:15-7.

3

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

6

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

8 34:15-7. a. When employer and employee shall by agreement,
9 either express or implied, as hereinafter provided, accept the
10 provisions of this article compensation for personal injuries to, or
11 for the death of, such employee by accident arising out of and in the
12 course of employment shall be made by the employer without
13 regard to the negligence of the employer, according to the schedule
14 contained in **sections** R.S.34:15-12 and R.S.34:15-13 **of this**
15 **Title** in all cases **except when** unless:

16 (1) the injury or death is intentionally self-inflicted**], or when**
17 **intoxication or]**;

18 (2) the injury or death occurs as a result of intoxication;

19 (3) the intoxication is a material contributing factor to the injury
20 or death;

21 (4) the unlawful use of controlled dangerous substances as
22 defined in the "New Jersey Controlled Dangerous Substances Act,"
23 P.L.1970, c.266 (C.24:21-1 et seq.), **[or]** is a natural and proximate
24 cause of the injury or death;

25 (5) the willful failure to make use of a reasonable and proper
26 personal protective device or devices furnished by the employer,
27 which has or have been clearly made a requirement of the
28 employee's employment by the employer and uniformly enforced
29 and which an employer can properly document that despite repeated
30 warnings, the employee has willfully failed to properly and
31 effectively utilize, is the natural and proximate cause of injury or
32 death provided, however, **[this latter provision]** that the provisions
33 of this paragraph (5) shall not apply where there is such imminent
34 danger or need for immediate action which does not allow for
35 appropriate use of personal protective device or devices, and the
36 burden of the proof of such fact shall be upon the employer; or
37 **[when]**

38 (6) recreational or social activities, **[unless such]** other than
39 recreational or social activities which are a regular incident of
40 employment and produce a benefit to the employer beyond
41 improvement in employee health and morale, are the natural and
42 proximate cause of the injury or death.

43 b. If the employee was intoxicated when the injury or death
44 occurred, it shall be presumed that the injury or death was caused

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 by the intoxication and the employee shall be barred from receiving
2 workers' compensation.

3 (cf: P.L.1979, c.283, s.1)

4

5 2. This act shall take effect immediately.

6

7

8

STATEMENT

9

10 This bill amends the workers' compensation law to provide that
11 if an employee was intoxicated when the injury or death occurred, it
12 is presumed that the injury or death was caused by the intoxication
13 and the employee will be barred from receiving workers'
14 compensation.

15 This bill is, in part, a response to the New Jersey Supreme Court
16 case of Tlumac v. High Bridge Stone, 187 N.J. 567 (2006), in which
17 the Court reaffirmed a long standing rule that held intoxication must
18 be the "sole cause" of an accident in order to deprive an employee
19 of workers' compensation benefits. In its decision, the Court stated
20 that its role is to "effectuate the will of the Legislature" and
21 concluded that any changes to the workers' compensation system
22 must be done through legislation. Moreover, the Court noted that
23 the workers' compensation law was created in 1911 and "may no
24 longer comport with current policies."