

SENATE, No. 1557

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

Requires certain physicians to perform examination for potential brain injury related to workers' compensation award; requires Commissioner of Labor and Workforce Development to mandate brain injury training and protocol for employers and insurance carriers.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning workers' compensation for brain injuries and
2 amending P.L.1980, c.90 and supplementing chapter 15 of Title
3 34 of the Revised Statutes (C.34:15-1 et seq.).

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

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8 1. R.S.34:15-68 is amended to read as follows:

9 34:15-68. a. In all cases where it shall be necessary to make a
10 physical examination of an employee in an inquiry to award
11 compensation, the examination shall be made by a physician who is
12 the same sex as the employee if so requested by the employee.

13 b. In all cases involving an employee who was injured in a
14 blast or some other instance in which an employee could have
15 sustained traumatic brain injury, a physician whose scope of
16 practice includes the ability to diagnose and treat brain injury shall
17 perform any physical examination of the employee in an inquiry to
18 award compensation.

19 As used in P.L. , c. (C.) (pending before the Legislature
20 as this bill):

21 "blast" means a destructive wave of highly compressed air
22 spreading outward from an explosion;

23 "traumatic brain injury" means a blow or jolt to the head or a
24 penetrating brain injury that disrupts the function of the brain.

25 (cf: P.L.1980, c.90, s.10)

26
27 2. (New section) The Commissioner of Labor and Workforce
28 Development shall adopt rules and regulations which:

29 a. require employers to undergo training and education with
30 respect to brain injury from a blast, or some other instance in which
31 an employee could have sustained traumatic brain injury, developed
32 by workers' compensation insurance carriers of employers, or
33 workers' compensation third-party administrators, in consultation
34 with the commissioner, as a condition of workers' compensation
35 insurance coverage;

36 b. require workers' compensation insurance carriers of
37 employers or workers' compensation third-party administrators to
38 receive information on concussion and brain injury protocol
39 consistent with the protocol developed regarding concussions in
40 P.L.2010, c.94 (C.18A:40-41.1 et seq.), and any additional
41 guidelines developed by the federal Centers for Disease Control and
42 Prevention or the State Department of Health; and

43 c. prohibit a workers' compensation insurance carrier of an
44 employer or a workers' compensation third-party administrator from
45 releasing an employee from workers' compensation coverage unless

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 the release is within the scope of the recovery plans of the
2 employee's treating physician.

3

4 3. This act shall take effect immediately.

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STATEMENT

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9 This bill requires a physician whose scope of practice includes
10 the ability to diagnose and treat brain injury to perform any physical
11 examination of an employee in an inquiry to award compensation in
12 all cases involving an employee who was injured in a blast or some
13 other instance in which an employee could have sustained traumatic
14 brain injury. Under the bill, "blast" means a destructive wave of
15 highly compressed air spreading outward from an explosion.

16 Additionally, the bill requires the Commissioner of Labor and
17 Workforce Development to adopt rules and regulations which:

18 a. require employers to undergo training and education with
19 respect to brain injury from a blast, or some other instance in which
20 an employee could have sustained traumatic brain injury, as a
21 condition of workers' compensation insurance coverage;

22 b. require workers' compensation insurance carriers of
23 employers or workers' compensation third-party administrators to
24 receive information on concussion and brain injury protocol
25 consistent with the existing protocol developed regarding
26 concussions in State law, and any additional guidelines developed
27 by the federal Centers for Disease Control and Prevention or the
28 State Department of Health; and

29 c. prohibit a workers' compensation insurance carrier of an
30 employer or a workers' compensation third-party administrator from
31 releasing an employee from workers' compensation coverage unless
32 the release is within the scope of the employee's treating
33 physician's recovery plans.

34 Brain injury from a blast can occur even without direct trauma to
35 a person's head. An employer may not be aware that blasts can
36 cause brain injury and may not realize an employee injured in a
37 blast should be evaluated and possibly treated for brain injury. This
38 bill would require an examination by a physician with experience in
39 diagnosing and treating brain injuries in any case in which an
40 employee is injured from a blast, or some other instance in which an
41 employee could have sustained traumatic brain injury, as well as
42 mandate education and training for employers and insurance
43 carriers, so that brain injuries from blasts do not go undetected and
44 untreated.