

[First Reprint]

SENATE, No. 2722

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JULY 28, 2020

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator TROY SINGLETON

District 7 (Burlington)

SYNOPSIS

Concerns workers' compensation; revises effective date of P.L.2019, c.387 to clarify that law applies to cases pending, but not yet settled, or filed on or after date of enactment; increases burial expense allowance.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on September 21, 2020, with amendments.



(Sponsorship Updated As Of: 9/24/2020)

1 AN ACT concerning workers' compensation and amending P.L.2019,
2 c.387 ¹and R.S.34:15-13¹.

3

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

6

7 1. Section 2 of P.L.2019, c.387 is amended to read as follows:

8 2. **【This act】** P.L.2019, c.387 shall take effect immediately,
9 and shall apply to all pending traumatic accident claims or
10 occupational disease or injury cases which have not yet been
11 adjudicated by a Judge of Workers Compensation or approved for
12 settlement under R.S.34:15-22 on or after the date of enactment of
13 P.L.2019, c.387. P.L.2019, c.387 shall not be applicable to cases
14 which have been reopened by an Application to Modify a Formal
15 Award pursuant to R.S.34:15-27.

16 (cf: P.L.2019, c.387, s.2)

17

18 ¹2. R.S.34:15-13 is amended to read as follows:

19 34:15-13. Except as hereinafter provided, in case of death,
20 compensation shall be computed, but not distributed, on the
21 following basis:

22 a. For one or more dependents, 70% of wages.

23 b. (Deleted by amendment, P.L.2003, c.253).

24 c. (Deleted by amendment, P.L.2003, c.253).

25 d. (Deleted by amendment, P.L.2003, c.253).

26 e. (Deleted by amendment, P.L.2003, c.253).

27 f. The term "dependents" shall apply to and include any or all
28 of the following who are dependent upon the deceased at the time of
29 accident or the occurrence of occupational disease, or at the time of
30 death, namely: husband, wife, parent, stepparents, grandparents,
31 children, stepchildren, grandchildren, child in esse, posthumous
32 child, illegitimate children, brothers, sisters, half brothers, half
33 sisters, niece, nephew. Legally adopted children shall, in every
34 particular, be considered as natural children. Dependency shall be
35 conclusively presumed as to the decedent's spouse and to any
36 natural child of a decedent under 18 years of age or, if enrolled as a
37 full-time student, under 23 years of age, who was actually a part of
38 the decedent's household at the time of the decedent's death. Every
39 provision of this article applying to one class shall be equally
40 applicable to the other, except for the surviving spouses of members
41 of the State Police or members of fire or police departments or
42 forces who die in line of duty. Should any dependent of a deceased
43 employee die during the period covered by such weekly payments
44 the right of such dependent to compensation under this section shall
45 cease, but should the surviving spouse of a deceased employee,
46 other than the surviving spouse of a deceased member of the State

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted September 21, 2020.

1 Police or member of a fire or police department or force who died
2 in line of duty, remarry during such period and before the total
3 compensation is paid, the spouse shall be entitled to receive the
4 remainder of the compensation which would have been due the
5 spouse had the spouse not remarried, or 100 times the amount of
6 weekly compensation paid immediately preceding the remarriage,
7 whichever is the lesser. If the deceased was a member of the State
8 Police or member of a fire or police department or force who died
9 in the line of duty, the compensation shall be paid to the surviving
10 spouse during the entire period of survivorship, even if the
11 surviving spouse remarries, but the surviving spouse shall not
12 receive a lump sum payment pursuant to this subsection. The
13 foregoing schedule applies only to persons wholly dependent, and
14 in the case of persons only partially dependent, except in the case of
15 the surviving spouse and children who were actually a part of the
16 decedent's household at the time of death, the compensation shall be
17 such proportion of the scheduled percentage as the amounts actually
18 contributed to them by the deceased for their support constituted of
19 his total wages and the provision as to a minimum of 20% of the
20 average weekly wage as set forth in subsection a. of R.S.34:15-12
21 shall not apply to such compensation. In determining the number of
22 dependents, where the deceased employee was a minor, the number
23 of persons dependent upon the deceased employee shall be
24 determined in the same way as if the deceased employee were an
25 adult, notwithstanding any rule of law as to the person entitled to a
26 minor's wages. Nothing in this subsection pertaining to the
27 surviving spouse of a member of the State Police or member of a
28 fire or police department or force who died in the line of duty shall
29 be construed to entitle the surviving spouse to resumed payments of
30 compensation if that surviving spouse received a lump sum payment
31 pursuant to this subsection or remarried prior to the effective date of
32 P.L.2013, c.62.

33 g. Compensation shall be computed upon the foregoing basis.
34 Distribution shall be made among dependents, if more than one,
35 according to the order of the Division of Workers' Compensation,
36 which shall, when applied to for that purpose, determine, upon the
37 facts being presented to it, the proportion to be paid to or on behalf
38 of each dependent according to the relative-dependency. Payment
39 on behalf of infants shall be made to the surviving parent, if any, or
40 to the statutory or testamentary guardian.

41 h. If death results from the accident or occupational disease,
42 whether there be dependents or not, expenses of the last sickness of
43 the deceased employee shall be paid in accordance with the
44 provisions for medical and hospital service as set forth in
45 R.S.34:15-15. In addition, the cost of burial and of a funeral, not to
46 exceed **[\$3,500]** \$5,000, shall be paid to the dependent or other
47 person having paid the costs of burial and the funeral. In the event
48 that the dependent or other person has paid less than **[\$3,500]**

1 \$5,000 for the costs of burial and the funeral, the dependent or other
2 person shall be reimbursed in the amount paid and, if the costs of
3 burial and the funeral exceed the amount so paid, the difference
4 between the said amount and ~~[\$3,500]~~ \$5,000 or so much thereof
5 as may be necessary to pay the cost of burial and the funeral, shall
6 be paid to the undertaker or embalmer or the dependent or other
7 person having paid the costs of burial and the funeral. In the event
8 that no part of the costs of burial and the funeral have been paid, the
9 amount of such cost of burial and the funeral, not to exceed
10 ~~[\$3,500]~~ \$5,000 , shall be paid to the undertaker or embalmer or
11 the dependent or other person who is to pay the costs of burial and
12 the funeral.

13 i. In computing compensation to those named in this section,
14 except husband, wife, parents and stepparents, and except as
15 otherwise provided in this section, only those under 18 or over 40
16 years of age shall be included and then only for that period in which
17 they are under 18 or over 40; provided, however, that payments to
18 such physically or mentally deficient persons as are for such reason
19 dependent shall be made during the full compensation period of 450
20 weeks.

21 j. The maximum compensation in case of death shall be
22 subject to the maximum compensation as stated in subsection a. of
23 R.S.34:15-12 and a minimum of 20% of average weekly wages per
24 week as set forth in subsection a. of R.S.34:15-12, except in the
25 case of partial dependency as provided in this section. This
26 compensation shall be paid, in the case of a surviving spouse, other
27 than a surviving spouse of a member of the State Police or member
28 of a fire or police department or force who died in the line of duty,
29 during the entire period of survivorship or until such surviving
30 spouse shall remarry and, in the case of other dependents, during
31 450 weeks and if at the expiration of 450 weeks there shall be one
32 or more dependents under 18 years of age, compensation shall be
33 continued for such dependents until they reach 18 years of age, or
34 23 years of age while enrolled as a full-time student, at the schedule
35 provided under subsection a. of this section. If the deceased was a
36 member of the State Police or member of a fire or police department
37 or force who died in the line of duty, the compensation shall be paid
38 to the surviving spouse during the entire period of survivorship,
39 even if the surviving spouse remarries, but the surviving spouse
40 shall not receive a lump sum payment pursuant to subsection f. of
41 this section.¹

42 (cf: P.L.2013, c.62, s.1)

43

44 ¹~~[2.]~~ 3.¹ This act shall take effect immediately.