

[Second Reprint]

**SENATE, No. 782**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Co-Sponsored by:**

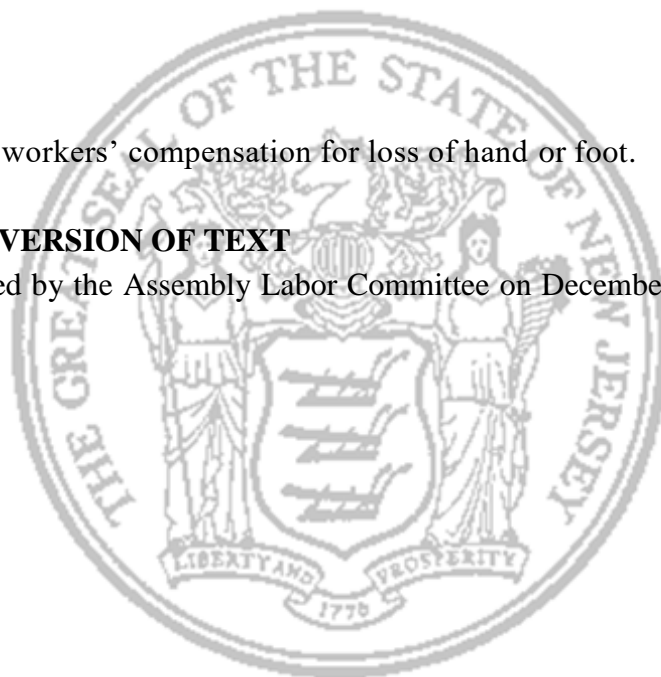
**Assemblywoman Chaparro, Assemblyman Verrelli and Assemblywoman McKnight**

**SYNOPSIS**

Increases workers' compensation for loss of hand or foot.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Labor Committee on December 9, 2019, with amendments.



**(Sponsorship Updated As Of: 12/17/2019)**

1 AN ACT concerning workers' compensation and amending  
2 R.S.34:15-12 <sup>2</sup>**[and P.L.1948, c.446]**<sup>2</sup>.

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

26 b. For disability total in character and permanent in quality,  
27 70% 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

**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:

<sup>1</sup>Senate SBA committee amendments adopted September 24, 2018.

<sup>2</sup>Assembly ALA committee amendments adopted December 9, 2019.

1 payments beyond 450 weeks shall be subject to such periodic  
 2 reconsiderations and extensions as the case may require, and shall  
 3 apply only to disability total in character and permanent in quality,  
 4 and shall not apply to any accident occurring prior to July 4, 1923.

5 c. For disability partial in character and permanent in quality,  
 6 weekly compensation shall be paid based upon 70% of the weekly  
 7 wages received at the time of the injury, subject to a maximum  
 8 compensation per week of 75% of the Statewide average weekly  
 9 wages (SAWW) earned by all employees covered by the  
 10 "unemployment compensation law" (R.S.43:21-1 et seq.) and paid  
 11 in accordance with the following "Disability Wage and  
 12 Compensation Schedule" and a minimum of \$35.00 per week. The  
 13 amount of awards for up to and including 180 weeks shall remain at  
 14 the amounts listed in the "Disability Wage and Compensation  
 15 Schedule" until January 1, 1982. On January 1, 1982, the dollar  
 16 amounts listed for the first 180 weeks in the "Disability Wage and  
 17 Compensation Schedule" shall be replaced by the following  
 18 percentages of the Statewide average weekly wage:

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

38

39 **DISABILITY WAGE AND COMPENSATION SCHEDULE**

40

41	Weeks of Allowable	Maximum Weekly Compensation
42	Compensation	Applicable
44	first 90 weeks. . . . .	\$47
45	91 through 96 weeks . .	\$49
46	97 through 102 weeks. .	\$49 for the first 96 weeks then \$51
47	for each remaining week	
48	103 through 108 weeks .	\$49 for the first 96 weeks then \$51

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

1 then \$66 for the next 6 weeks  
2 then \$68 for the next 6 weeks  
3 then \$70 for each remaining week  
4 151-156 weeks . . . . \$49 for the first 96 weeks  
5 then \$51 for the next 6 weeks  
6 then \$54 for the next 6 weeks  
7 then \$56 for the next 6 weeks  
8 then \$59 for the next 6 weeks  
9 then \$61 for the next 6 weeks  
10 then \$63 for the next 6 weeks  
11 then \$66 for the next 6 weeks  
12 then \$68 for the next 6 weeks  
13 then \$70 for the next 6 weeks  
14 then \$73 for each remaining week  
15 157-162 weeks . . . . \$49 for the first 96 weeks  
16 then \$51 for the next 6 weeks  
17 then \$54 for the next 6 weeks  
18 then \$56 for the next 6 weeks  
19 then \$59 for the next 6 weeks  
20 then \$61 for the next 6 weeks  
21 then \$63 for the next 6 weeks  
22 then \$66 for the next 6 weeks  
23 then \$68 for the next 6 weeks  
24 then \$70 for the next 6 weeks  
25 then \$73 for the next 6 weeks  
26 then \$75 for each remaining week  
27 163-168 weeks . . . . \$49 for the first 96 weeks  
28 then \$51 for the next 6 weeks  
29 then \$54 for the next 6 weeks  
30 then \$56 for the next 6 weeks  
31 then \$59 for the next 6 weeks  
32 then \$61 for the next 6 weeks  
33 then \$63 for the next 6 weeks  
34 then \$66 for the next 6 weeks  
35 then \$68 for the next 6 weeks  
36 then \$70 for the next 6 weeks  
37 then \$73 for the next 6 weeks  
38 then \$75 for the next 6 weeks  
39 then \$77 for each remaining week  
40 169-174 weeks . . . . \$49 for the first 96 weeks  
41 then \$51 for the next 6 weeks  
42 then \$54 for the next 6 weeks  
43 then \$56 for the next 6 weeks  
44 then \$59 for the next 6 weeks  
45 then \$61 for the next 6 weeks  
46 then \$63 for the next 6 weeks  
47 then \$66 for the next 6 weeks  
48 then \$68 for the next 6 weeks

- 1 then \$70 for the next 6 weeks
- 2 then \$73 for the next 6 weeks
- 3 then \$75 for the next 6 weeks
- 4 then \$77 for the next 6 weeks
- 5 then \$80 for each remaining week
- 6 175-180 weeks . . . . . \$49 for the first 96 weeks
- 7 then \$51 for the next 6 weeks
- 8 then \$54 for the next 6 weeks
- 9 then \$56 for the next 6 weeks
- 10 then \$59 for the next 6 weeks
- 11 then \$61 for the next 6 weeks
- 12 then \$63 for the next 6 weeks
- 13 then \$66 for the next 6 weeks
- 14 then \$68 for the next 6 weeks
- 15 then \$70 for the next 6 weeks
- 16 then \$73 for the next 6 weeks
- 17 then \$75 for the next 6 weeks
- 18 then \$77 for the next 6 weeks
- 19 then \$80 for the next 6 weeks
- 20 then \$82 for each remaining week
- 21 181-210 weeks . . . . . 35% of the Statewide average
- 22 weekly wages, hereinafter referred
- 23 to as "SAWW"
- 24 211-240 weeks . . . . . 40% of SAWW
- 25 241-270 weeks . . . . . 45% of SAWW
- 26 271-300 weeks . . . . . 50% of SAWW
- 27 301-330 weeks . . . . . 55% of SAWW
- 28 331-360 weeks . . . . . 60% of SAWW
- 29 361-390 weeks . . . . . 65% of SAWW
- 30 391-420 weeks . . . . . 70% of SAWW
- 31 421-600 weeks . . . . . 75% of SAWW

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

35 Lost Member	36 Number of Weeks' Compensation
37 1. Thumb . . . . .	<sup>1</sup> <b>[75]</b> <u>80</u> <sup>1</sup>
38 2. First finger (commonly called index finger)	<sup>1</sup> <b>[50]</b> <u>60</u> <sup>1</sup>
39 3. Second finger . . . . .	<sup>1</sup> <b>[40]</b> <u>50</u> <sup>1</sup>
40 4. Third finger. . . . .	<sup>1</sup> <b>[30]</b> <u>40</u> <sup>1</sup>
41 5. Fourth finger (commonly called little finger).	<sup>1</sup> <b>[20]</b> <u>30</u> <sup>1</sup>
42 6. Great toe . . . . .	40
43 7. Toe, other than a great toe. . . . .	15
44 8. Hand, or thumb and first and second fingers	
45 (on one hand) or four fingers (on one hand). . .	<sup>1</sup> <b>[245]</b> <u>260</u> <sup>1</sup>
46 <u>except that, in the event that the loss of function of the</u>	
47 <u>hand is determined to be equal to or greater than a 25%</u>	

- 1           loss of use of the hand, the award shall be calculated  
 2           based on 300 weeks of compensation.
- 3       9. Arm . . . . . 330
- 4       10. Foot. . . . . <sup>1</sup>**[230]** 250<sup>1</sup>
- 5           except that, in the event that the loss of function of the foot  
 6           is determined to be equal to or greater than a 25% loss of use  
 7           of the foot, the award shall be calculated based on <sup>1</sup>**[275]**  
 8           285<sup>1</sup> weeks of compensation.
- 9       11. Leg . . . . . 315
- 10       12. The loss of the first phalange of the thumb or of any finger  
 11 shall be considered to be equal to the loss of 1/2 of such thumb or  
 12 finger, and the compensation shall be for 1/2 of the periods of time  
 13 above specified. The loss of any portion of the thumb or any finger  
 14 between the terminal joint and the end thereof shall be compensated  
 15 for a like proportion of the period of time prescribed for the loss of  
 16 the first phalange of such member.
- 17       13. The loss of the first phalange and any portion of the second  
 18 shall be considered as the loss of the entire finger or thumb, but in  
 19 no case shall the amount received for more than one finger exceed  
 20 the amount provided in this schedule for the loss of a hand.
- 21       14. The loss of the first phalange of any toe shall be considered  
 22 to be equal to the loss of 1/2 of such toe, and compensation shall be  
 23 for 1/2 of the period of time above specified.
- 24       15. The loss of the first phalange and any portion of the second  
 25 shall be considered as the loss of the entire toe.
- 26       16. For the loss of vision of an eye, 200 weeks.
- 27       17. For the enucleation of an eye, 25 weeks, in addition to such  
 28 compensation, if any, as may be allowable under paragraph 16 of  
 29 this subsection.
- 30       18. For the loss of a natural tooth, four weeks for each tooth  
 31 lost.
- 32       19. For the total loss of hearing in one ear, 60 weeks. For the  
 33 total loss of hearing in both ears by one accident, 200 weeks.
- 34       20. The loss of both hands, or both arms, or both feet, or both  
 35 legs, or both eyes, or any two thereof as the result of any one  
 36 accident, shall constitute total and permanent disability to be  
 37 compensated according to the provisions of subsection b. of this  
 38 section.
- 39       21. Amputation between the elbow and the wrist shall be  
 40 considered as the equivalent of the loss of a hand and amputation at  
 41 the elbow shall be considered equivalent to the loss of the arm.  
 42 Amputation between the knee and ankle shall be considered as the  
 43 equivalent of the loss of a foot, and amputation at the knee shall be  
 44 considered equivalent to the loss of the leg. An additional amount  
 45 of 30% of the amputation award shall be added to that award to  
 46 compute the total award made in amputations of body members,  
 47 provided, however, that this additional amount shall not be subject  
 48 to legal fees. <sup>1</sup>An award of permanent total disability shall not bar

1 an additional amount from being added to an amputation award.  
2 The amount of the additional award shall not be subject to  
3 subrogation pursuant to R.S.34:15-40, as it shall not be considered a  
4 payment of compensation except for rating purposes.<sup>1</sup>

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

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

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

31 e. In case of the death of the person from any cause other than  
32 the accident or occupational disease, during the period of payments  
33 for permanent injury, the remaining payments shall be paid to such  
34 of the deceased person's dependents as are included in the  
35 provisions of R.S.34:15-13 or, if no dependents, the remaining  
36 amount due, but not exceeding ~~【\$3,500.00】~~ \$5,000, shall be paid in  
37 a lump sum to the proper person for burial and funeral expenses;  
38 but no compensation shall be due any other person than the injured  
39 employee on account of compensation being paid in excess of 450  
40 weeks on account of disability total in character and permanent in  
41 quality as provided by subsection b. of this section.

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

43

44 <sup>2</sup>[2. Section 3 of P.L.1948, c.446 (C.34:1A-3) is amended to  
45 read as follows:

46 3. The commissioner, as head of the department, shall:

47 (a) Administer the work of the department;



1 (b) Appoint and remove officers and other personnel employed  
2 within the department, subject to the provisions of **【Title 11 of the**  
3 **Revised Statutes】** Title 11A of the New Jersey Statutes, Civil  
4 Service, and other applicable statutes, except as herein otherwise  
5 specifically provided;

6 (c) Perform, exercise and discharge the functions, powers and  
7 duties of the department through such divisions as may be  
8 established by this act or otherwise by law;

9 (d) Organize the work of the department in such divisions, not  
10 inconsistent with the provisions of this act and in such bureaus and  
11 other organizational units as he may determine to be necessary for  
12 efficient and effective operation;

13 (e) Adopt, issue and promulgate, in the name of the department,  
14 such rules and regulations as may be authorized by law;

15 (f) Formulate and adopt rules and regulations for the efficient  
16 conduct of the work and general administration of the department,  
17 its officers and employees;

18 (g) Institute or cause to be instituted such legal proceedings or  
19 processes as may be necessary properly to enforce and give effect to  
20 any of his powers or duties;

21 (h) Make an annual report to the Governor and to the  
22 Legislature of the department's operations, and render such other  
23 reports as the Governor shall from time to time request or as may be  
24 required by law;

25 (i) Co-ordinate the activities of the department, and the several  
26 divisions and other agencies therein, in a manner designed to  
27 eliminate overlapping and duplicating functions;

28 (j) Integrate within the department, so far as practicable, all  
29 staff services of the department and of the several divisions and  
30 other agencies therein; **【and】**

31 (k) Study, in consultation with the Commissioner of Banking  
32 and Insurance, the State's workers' compensation system and make  
33 recommendations that will help foster and maintain an efficient,  
34 effective and well-balanced workers' compensation program that is  
35 equally responsive to the needs of both the State's workforce and  
36 the employer community, and submit a study, with  
37 recommendations, to the Governor and the Legislature not later than  
38 one year after the effective date of P.L. , c. (pending before the  
39 Legislature as this bill), and every five years thereafter; and

40 (l) Perform such other functions as may be prescribed in this act  
41 or by any other law.

42 (cf: P.L.1948, c.446, s.3)<sup>2</sup>

43  
44 <sup>2</sup>**【3.】**<sup>2</sup> This act shall take effect immediately.