

[First Reprint]

ASSEMBLY, No. 4134

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MAY 11, 2020

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District 11 (Monmouth)

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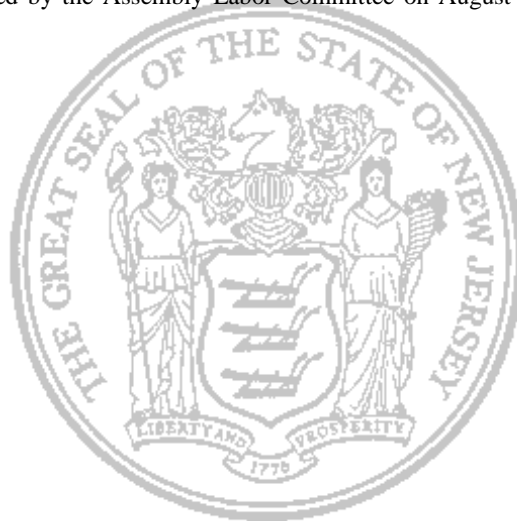
District 15 (Hunterdon and Mercer)

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 Assembly Labor Committee on August 10, 2020, with amendments.



(Sponsorship Updated As Of: 8/13/2020)

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

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:

¹Assembly ALA committee amendments adopted August 10, 2020.

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

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

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

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

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

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

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

45

46 ¹**[2.]** 3.¹ This act shall take effect immediately.