

June 29, 1971

LEGISLATIVE HISTORY OF R.S.34:15-12 (2) (23)  
 (Schedule of payments; permanent partial disability - hernia)

COPY 1

- L.1911 - chap.95 - S-27.  
 Original workman's compensation - no mention of hernia in schedule of compensation.
- Amended by the following laws:
- L.1913 - chap.174 - S-125.  
 Amends 34:15-12 but no mention of hernia.
- L.1919 - chap93 - S-10.  
 This is the first specific mention of hernia in the schedule of compensation.  
 January 20 - Introduced by Senator Hammond.  
 March 3 - Committee substitute for S-10 and S-12 (both workmen's compensation bills introduced by Senator Hammond) was reported out of committee. A Second Committee Substitute for S-10 and S-12 was read and adopted.  
 March 12 - Amended by Senate.  
 March 17 - Amended and passed by Senate.  
 March 31 - Amended and passed by Assembly.  
 April 11 - Approved, chapter 93.  
 (Copy enclosed of pertinent section of this act)  
 Amended during passage but this section was not affected.
- The State Library does not have all forms of S-10, S-12 and the Committee Substitute for them. We found statements on S-10 and on the Assembly Amendments to the Second Committee Substitute. Neither statement is pertinent to the section on compensation for hernia.
- L.1923 - chap.49  
 Amends 34:15-12 but no substantive change in the section pertaining to hernia.
- L.1928 - chap.135  
 Amends 34:15-12 but no substantive change in the section pertaining to hernia.
- L.1931 - chap.279 - S-298.  
 March 16 - Introduced by Reeves.  
 April 15 - Passed Senate.  
 April 21 - Passed Assembly.  
 April 27 - Approved, chapter 279.  
 Not amended during passage. Statement on the bill (copy enclosed of original bill with statement).

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- L.1939 - chap.287  
Amends 34:15-12 but no substantive change to section involving hernia.
- L.1942 - chap.97  
Deletes a provision limiting to \$150 the amount of expense of a hernia operation to be met by the employer. No other substantive change to this section.
- L.1945 - chap.74  
Substituted the words "preponderant proof" for "conclusive proof" in former provision relating to hernia (subparagraph 23) which required preponderant proof that hernia was caused by sudden effort or severe strain. No other substantive change to this section.
- L.1950 - chap.175 - A-99.  
Complete revision of section pertaining to hernia.  
February 6 - Introduced by A.M. Smith.  
April 12 - Passed Assembly, amended.  
May 17 - Passed Senate, amended.  
May 17 - Senate amended. Passed Assembly.  
June 2 - Approved, chapter 175.  
Statement on the bill does not pertain to paragraph relating to hernia.  
Amended during passage. A-99 as introduced made no change in paragraph relating to hernia. Senate amendment of May 17, 1950 replaced entire paragraph.
- L.1951 - chap.105  
Amended 34:15-12 but no change in section dealing with hernia.
- L.1956 - chap.141.  
Amended 34:15-12 but no change in section dealing with hernia.
- L.1962 - chap.57  
Amended 34:15-12 but no change in section dealing with hernia.
- L.1966 - chap.126  
Amended 34:15-12 but no change in section dealing with hernia.

Hearings and Reports.

There are numerous reports in the area of workmen's compensation. The only ones consulted for the purpose of this legislative history are those reports made in or near the years (1919, 1931, 1950) in which there was a substantial change in the section under consideration here - i.e. subparagraph 23 - hernia. The reports consulted are listed below.

974.90      New Jersey. Employers' liability commission.  
E55  
1916              Report...1915.

974.90      Nelson, Harry A.  
E55              Report of study of N.J. Workmen's Compensation  
1951              Act...

974.90      N.J. Workmen's Compensation Advisory Commission.  
E55  
1931              Report to the Commissioner of Labor...

Note: This report recommended the amendment made by Laws 1931, chap.279.

Note: There is a New Jersey Workmen's Compensation Law Study Commission which was created by Laws 1966, chapter 126. This commission held hearings and issued reports in 1968. The report listed below contains suggested changes in the workmen's compensation law. The subparagraph 23 (hernia) remains unchanged.

974.90      N.J. Workmen's Compensation Law Study Commission.  
E55  
1968              Report... July 1968.

(GC - Not searched - years in question are not yet indexed)

JH/EH  
Encl.

weeks. For the total loss of hearing in both ears by one accident, sixty-six and two-thirds per centum of daily wages during one hundred and sixty weeks.

Both hands,  
feet, etc.

(v) The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof as a result of any one accident, shall constitute total and permanent disability, to be compensated according to the provisions of clause (b).

In other cases.

(w) In all lesser or other cases involving permanent loss, or where the usefulness of a member or any physical function is permanently impaired, the compensation shall be sixty-six and two-thirds per centum of daily wages, and the duration of compensation shall bear such relation to the specific periods of time stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. Should the employer and employee be unable to agree upon the amount of compensation to be paid in cases not covered by the schedule, either party may appeal to the Workmen's Compensation Bureau for a settlement of the controversy.

Right of  
appeal in  
disagreement.

Hernia.

(x) Hernia is a disease which ordinarily develops gradually, being very rarely the result of an accident. Where there is real traumatic hernia resulting from the application of force directly to the abdominal wall, either puncturing or tearing the wall, compensation will be allowed. All other cases will be considered as either congenital or of slow development and not compensable, being a disease rather than an accidental injury; unless conclusive proof is offered that the hernia was immediately caused by such sudden effort or severe strain that, first, the descent of the hernia immediately followed the cause; second, that there was severe pain in the hernial region; third, that there was such prostration that the employee was compelled to cease work immediately; fourth, that the above facts were of such severity that the same was noticed by the claimant and communicated to the employer within twenty-four hours after the occurrence of the hernia; fifth, that there was such physical distress that the attendance of a licensed physician was required within twenty-four hours after the occurrence of the hernia. In the case of hernia, as

above defined, the provisions of paragraphs thirteen, fourteen and eleven (a) shall apply, until such time as the employee is able to resume some kind of work with the aid of a truss or other mechanical appliance. If the employee refuses to permit of an operation, the employer shall meet the requirements above specified, pay the reasonable costs of the truss or other appliance found necessary, and also pay compensation for twenty weeks, following which his obligation shall cease and terminate, unless death results from the hernia, in which case the provisions of paragraph twelve shall apply. However, if the employee shall elect to undergo an operation, by a physician selected by the employer, the employer shall meet all the expense incident to such operation and recovery, not in excess of one hundred and fifty dollars, together with compensation as provided in paragraph eleven (a) during the periods of disability prior to and following the operation, subject to the provisions of paragraph thirteen. If the employee refuses the services of the physician selected by the employer, preferring one of his own selection, the employer shall be relieved of obligations concerning medical expense due to the operation and recovery, but shall pay compensation during the prior and resulting periods of disability. If death results from the hernia or operation, the provisions of paragraph twelve shall apply.

(y) The weekly compensation payments specified in paragraph eleven, are all subject to the same limitations as to maximum and minimum as are stated in clause (a) hereof.

As to weekly compensation.

(z) In case of the death of a person from any cause other than the accident, during the period of payments for permanent injury, the remaining payments shall be paid to such of his or her dependents as are included in the provisions of paragraph twelve of this act, or, if no dependents, the remaining amount due, but not exceeding one hundred dollars, shall be paid in a lump sum to the proper person for funeral expenses.

Payments when death results from other causes.

Paragraph twelve of the said act is hereby amended to read as follows:

Section 12 amended.

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1931

BY MR. BISHOP

Referred to Committee on Judiciary

AN ACT to amend an act entitled "An act prescribing the liability of an employer to make compensation for injuries received by an employee in the course of employment, establishing an elective schedule of compensation, and regulating procedure for the determination of liability and compensation thereunder," approved April fourth, one thousand nine hundred and eleven.

1 ~~BE~~ IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1 1. Paragraph eleven (x) of the act referred to in the title of this act is hereby  
2 amended to read as follows:

3 (x) Inguinal Hernia is a disease which ordinarily develops gradually, being  
4 very rarely the result of an accident. Where there is real traumatic hernia resulting  
5 from the application of force directly to the abdominal wall, either puncturing or  
6 tearing the wall, compensation will be allowed. All other cases will be considered  
7 as either congenital or slow development and not compensable, being a disease rather  
8 than an accidental injury; unless conclusive proof is offered that the hernia was  
9 immediately caused by such sudden effort or severe strain that, first the descent of  
10 the hernia immediately followed the cause; second, that there was severe pain in  
11 the hernial region; third, that there was such prostration that the employee was  
12 compelled to cease work immediately; fourth, that the above facts were of such  
13 severity that the same was noticed by the claimant and communicated to the employer  
14 within twenty-four hours after the occurrence of the hernia, and days when the  
15 business is not in operation, such as Sundays, Saturdays or holidays, shall be  
16 excluded from this twenty-four hour period; fifth, that there was such physical

17 distress that the attendance of a licensed physician was required within twenty-  
 18 four hours after the occurrence of the hernia. In the case of hernia as above defined,  
 19 the provisions of paragraph thirteen, fourteen and eleven (a) shall apply, until  
 20 such time as the employee is able to resume some kind of work with the aid of a  
 21 truss or other mechanical appliance. If the employee refuses to permit of an opera-  
 22 tion, the employer shall meet the requirements above specified, pay the reasonable  
 23 costs of the truss or other appliance found necessary, and also pay compensation  
 24 for twenty weeks, following which the obligation shall cease and terminate, unless  
 25 death results from the hernia, in which case the provisions of paragraph twelve shall  
 26 apply. However, if the employee shall elect to undergo an operation, by a physician  
 27 selected by the employer, the employer shall meet all the expenses incident to such  
 28 operation and recovery, not in excess of one hundred and fifty dollars, together  
 29 with compensation as provided in paragraph eleven (a) during the period of dis-  
 30 ability prior to and following the operation, subject to the provisions of paragraph  
 31 thirteen. If the employee refuses the services of the physician selected by the  
 32 employer, preferring one of his own selection, the employer shall be relieved  
 33 obligations concerning medical expense due to the operation and recovery, but shall  
 34 pay compensation during the prior and resulting periods of disability. If death  
 35 results from the hernia or operation, the provisions of paragraph twelve shall apply.

1 2. Paragraph twenty-one (f) is hereby amended to read as follows:

2 (f) An agreement [or award of] for compensation may be modified at any  
 3 time by a subsequent agreement, or a formal award reviewed within two years  
 4 from the date when the injured person last received a payment, upon the application  
 5 of either party on the ground that the incapacity of the injured employee has  
 6 subsequently increased, or reviewed at any time on the ground that the disability has  
 7 diminished. In such case the provisions of paragraph seventeen with reference to  
 8 medical examination shall apply.

1 3. Paragraph twenty-three (f) is hereby amended to read as follows:

2 (f) Where a third person or corporation is liable to the employee or his  
 3 dependents for an injury or death, the existence of a right of compensation  
 4 from the employer under this statute shall not operate as a bar to the action of  
 5 the employee or his dependents, nor be regarded as establishing a measure of  
 6 damage therein. However, in event that the employee or his dependents shall

7 recover from the said third person or corporation, a sum equivalent to or greater  
8 than the total compensation payments for which the employer is liable under this  
9 statute, the employer shall be released thereby from the obligation of compensation.  
10 If, however, the sum so recovered from the third person or corporation is less  
11 than the total of compensation payments, the employer shall be liable only for the  
12 difference. The obligation of the employer under this statute to make compensa-  
13 tion shall continue until the payment, if any, by such third person or corporation  
14 is made. Such employer shall file with the third person or corporation so liable,  
15 at any time prior to payment, a statement of the compensation agreement or  
16 award between himself and his employee, or the dependents of the employee, and  
17 the employer shall thereafter be entitled to receive from such third person or cor-  
18 poration, upon the payment of any amount in release or in judgment by the third  
19 person or corporation on account of his or its liability to the injured employee or  
20 his dependents, a sum equivalent to the medical expenses incurred and the amount  
21 of compensation payments which the employer has heretofore paid to the injured  
22 employee or his dependents, which payments shall be deducted by the third persons  
23 or corporation from the sum paid in release or judgment to the injured employee  
24 or his dependents.

25 When an injured employee or his dependent fails within six months of the  
26 accident, to take legal action against a third party responsible for the injury, or  
27 accepts a settlement for less than the compensation obligation of the employer, the  
28 employer or his insurance carrier is hereby authorized to proceed legally against  
29 such third party; provided, however, if the amount secured by the employer or  
30 carrier is in excess of the employer's obligation and the expense of suit, the balance  
31 shall be paid to the employee or the dependent.

1 4. Paragraph twenty-three (g) is hereby amended to read as follows:

2 (g) Whenever in section two of this act the term "wages" is used it shall  
3 be construed to mean the money rate at which the service rendered is recom-  
4 pensed under the contract of hiring in force at the time of the accident, and  
5 shall not include gratuities received from the employer or others. Board and  
6 lodging when furnished by the employer as part of the wages shall be included  
7 and valued at five dollars per week, unless the money value of such advantages

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8 shall have been otherwise fixed by the parties at the time of hiring. Where prior  
 9 to the accident, the rate of wages is fixed by the output of the employee, the  
 10 daily wage shall be calculated by dividing the number of days the workman was  
 11 actually employed into the total amount the employee earned during the preced-  
 12 ing six months, or so much thereof as shall refer to employment by the same  
 13 employer. Where the rate of wages is fixed by the hour, the daily wage shall be  
 14 found by multiplying the hourly rate by the customary number of working hours  
 15 constituting an ordinary day in the character of the work involved. In any case  
 16 the weekly wage shall be found by multiplying the daily wage by five [and one-  
 17 half] or if the employee worked a greater proportion of the week regularly, then  
 18 by five and one-half, six, six and one-half or seven, according to the customary  
 19 number of working days constituting an ordinary week in the character of work  
 20 involved. Five days shall constitute a minimum week.

1 5. Paragraph twenty-three (h) is hereby amended to read as follows:  
 2 (h) In case of personal injury or death all claims for compensation on  
 3 account thereof shall be forever barred unless a petition is filed in duplicate with  
 4 the secretary of the Workmen's Compensation Bureau, at the State House, in  
 5 Trenton, as prescribed in paragraph five of the supplement to this act, approved  
 6 February twenty-eight, one thousand nine hundred and eighteen, as Chapter one  
 7 hundred and forty-nine, as later amended. [within one year after the date on which  
 8 the accident occurred, or in case an agreement of compensation has been made  
 9 between such employer and such claimant, then within one year after the failure  
 10 of the employer to make payment pursuant to the terms of such agreement; or  
 11 in case a part of the compensation has been paid by such employer, then within  
 12 one year after the last payment of compensation.]

1 6. This act shall take effect immediately.

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STATEMENT

The purpose of these amendments is as follows:

- To protect an employee with respect to giving notice of a hernia when the plant may be shut down.
- To clarify and make certain when a claim may be reopened.
- To define more certainly the minimum compensation week.

SENATE, No. 55

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1942

By Mr. FARLEY

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning workmen's compensation, and amending section 34:15-12 of  
the Revised Statutes.

1     BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1     1. Section 34:15-12 of the Revised Statutes is amended to read as follows:

2     34:15-12. Following is a schedule of compensation:

3     a. For injury producing temporary disability, sixty-six and two-thirds  
4 per centum (66 2/3%) of the wages received at the time of the injury, subject  
5 to a maximum compensation of twenty dollars (\$20.00) per week and a  
6 minimum of ten dollars (\$10.00) per week; if at the time of the injury the  
7 employee receives wages of less than ten dollars (\$10.00) per week, then he  
8 shall receive the full amount of such wages per week. This compensation  
9 shall be paid during the period of such disability, not, however, beyond three  
10 hundred weeks.

11     b. For disability total in character and permanent in quality, sixty-six  
12 and two-thirds per centum (66 2/3%) of the wages received at the time of  
13 injury, subject to a maximum compensation of twenty dollars (\$20.00) per  
14 week and a minimum of ten dollars (\$10.00) per week; if at the time of  
15 injury the employee received wages of less than ten dollars (\$10.00) per  
16 week then he shall receive the full amount of wages per week. This compensa-  
17 tion shall be paid for a period of four hundred weeks, at which time com-

18 pension payments shall cease unless the employee shall have submitted to  
19 such physical or educational rehabilitation as may have been ordered by the  
20 rehabilitation commission, and can show that because of such disability it is  
21 impossible for him to obtain wages or earnings equal to those earned at  
22 the time of the accident, in which case further weekly payments shall be  
23 made during the period of such disability, the amount thereof to be the  
24 previous weekly compensation payment diminished by that portion thereof  
25 that the wage, or earnings, he is then able to earn, bears to the wages  
26 received at the time of the accident. In calculating compensation for this  
27 extension beyond four hundred weeks the minimum provision of ten dollars  
28 (\$10.00) shall not apply. This extension of compensation payments beyond  
29 four hundred weeks shall be subject to such periodic reconsiderations and  
30 extensions as the case may require, and shall apply only to disability total in  
31 character and permanent in quality, and shall not apply to any accident  
32 occurring prior to July fourth, one thousand nine hundred and twenty-three.

33 c. For disability partial in character, but permanent in quality, the com-  
34 pensation shall be based upon the extent of such disability. In cases included  
35 in the following schedule the compensation shall be that named in the  
36 schedule, to wit:

37 d. For the loss of the thumb, sixty-six and two-thirds per centum  
38 ( $66\frac{2}{3}\%$ ) of daily wages during sixty-five weeks.

39 e. For the loss of the first finger, commonly called index finger, sixty-  
40 six and two-thirds per centum ( $66\frac{2}{3}\%$ ) of daily wages during forty weeks.

41 f. For the loss of a second finger, sixty-six and two-thirds per centum  
42 ( $66\frac{2}{3}\%$ ) of daily wages during thirty weeks.

43 g. For the loss of a third finger, sixty-six and two-thirds per centum  
44 ( $66\frac{2}{3}\%$ ) of daily wages during twenty weeks.

45 h. For the loss of a fourth finger, commonly called little finger, sixty-  
46 six and two-thirds per centum ( $66\frac{2}{3}\%$ ) of daily wages during fifteen weeks.

47 i. The loss of the first phalange of the thumb or of any finger shall be  
48 considered to be equal to the loss of one-half of such thumb or finger, and

49 the compensation shall be for one-half of the periods of time above specified.

50 The loss of any portion of the thumb or any finger between the terminal  
51 joint and the end thereof shall be compensated for a like proportion of the  
52 period of time prescribed for the loss of the first phalange of such member.

53 j. The loss of the first phalange and any portion of the second shall be  
54 considered as the loss of the entire finger or thumb, but in no case shall the  
55 amount received for more than one finger exceed the amount provided in this  
56 schedule for the loss of a hand.

57 k. For the loss of a great toe, sixty-six and two-thirds per centum  
58 (66 2/3%) of daily wages during thirty weeks.

59 l. For the loss of one of the toes other than a great toe, sixty-six and  
60 two-thirds per centum (66 2/3%) of daily wages during ten weeks.

61 m. The loss of the first phalange of any toe shall be considered to be  
62 equal to the loss of one-half of such toe, and compensation shall be for one-  
63 half of the period of time above specified.

64 n. The loss of the first phalange and any portion of the second shall be  
65 considered as the loss of the entire toe.

66 o. For the loss of a hand, sixty-six and two-thirds per centum (66 2/3%)  
67 of the daily wages during one hundred [and] seventy-five weeks.

68 p. For the loss of an arm, sixty-six and two-thirds per centum (66 2/3%)  
69 of daily wages during two hundred thirty weeks.

70 q. For the loss of a foot, sixty-six and two-thirds per centum (66 2/3%)  
71 of daily wages during one hundred twenty-five weeks.

72 r. For the loss of a leg, sixty-six and two-thirds per centum (66 2/3%)  
73 of daily wages during one hundred [and] seventy-five weeks.

74 s. For the loss of an eye, sixty-six and two-thirds per centum (66 2/3%)  
75 of daily wages during one hundred weeks.

76 t. For the loss of a natural tooth, sixty-six and two-thirds per centum  
77 (66 2/3%) of daily wages for four weeks for each tooth lost.

78 u. For the total loss of hearing in one ear, sixty-six and two-thirds per  
79 centum (66 2/3%) of daily wages during forty weeks. For the total loss of

80 hearing in both ears by one accident, sixty-six and two-thirds per centum  
81 (66 2/3%) of daily wages during one hundred sixty weeks.

82 v. The loss of both hands, or both arms, or both feet, or both legs, or  
83 both eyes, or any two thereof as a result of any one accident, shall constitute  
84 total and permanent disability to be compensated according to the provi-  
85 sions of paragraph "b."

86 vv. Amputation between the elbow and the wrist shall be considered as  
87 the equivalent of the loss of a hand and amputation at the elbow shall be  
88 considered equivalent to the loss of the arm. Amputation between the knee  
89 and the ankle shall be considered as the equivalent of the loss of a foot, and  
90 amputation at the knee shall be considered equivalent to the loss of the leg.

91 w. In all lesser or other cases involving permanent loss, or where the  
92 usefulness of a member or any physical function is permanently impaired, the  
93 compensation shall be sixty-six and two-thirds per centum (66 2/3%) of  
94 daily wages, and the duration of compensation shall bear such relation to the  
95 specific periods of time stated in the above schedule as the disabilities bear  
96 to those produced by the injuries named in the schedule. In cases in which  
97 the disability is determined as a percentage of total and permanent disability  
98 the duration of the compensation shall be a corresponding portion of five  
99 hundred weeks. Should the employer and employee be unable to agree upon  
100 the amount of compensation to be paid in cases not covered by the schedule,  
101 either party may appeal to the workmen's compensation bureau for a settle-  
102 ment of the controversy.

103 x. Inguinal hernia is a disease which ordinarily develops gradually,  
104 being very rarely the result of an accident. Where there is a real traumatic  
105 hernia resulting from the application of force directly to the abdominal  
106 wall, either puncturing or tearing the wall, compensation will be allowed.  
107 All other cases will be considered as either congenital or of slow develop-  
108 ment and not compensable, being a disease rather than an accidental injury;  
109 unless conclusive proof is offered that the hernia was immediately caused by  
110 such sudden effort or severe strain that, first, the descent of the hernia

111 immediately followed the cause; second, that there was severe pain in the  
112 hernial region; third, that there was such prostration that the employee was  
113 compelled to cease work immediately; fourth, that the above facts were of  
114 such severity that the same was noticed by the claimant and communicated  
115 to the employer within twenty-four hours after the occurrence of the hernia  
116 (days when the business is not in operation, such as Sundays, Saturdays or  
117 holidays shall be excluded from this twenty-four-hour period); fifth, that  
118 there was such physical distress that the attendance of a licensed physician  
119 was required within twenty-four hours after the occurrence of the hernia. In  
120 the case of hernia as above defined, the provisions of paragraph "a" of this  
121 section and sections 34:15-14 and 34:15-15 of this Title shall apply, until  
122 such time as the employee is able to resume some kind of work with the aid  
123 of a truss or other mechanical appliance. If the employee refuses to permit  
124 of an operation the employer shall meet the requirements above specified, pay  
125 the reasonable costs of the truss or other appliance found necessary, and also  
126 pay compensation for twenty weeks, following which the obligation shall  
127 cease and terminate, unless death results from the hernia, in which case the  
128 provisions of section 34:15-13 of this Title shall apply. However, if the  
129 employee shall elect to undergo an operation, by a physician selected by the  
130 employer, the employer shall meet all the expense incident to such operation  
131 and recovery [not in excess of one hundred fifty dollars (\$150.00),] together  
132 with compensation as provided in paragraph "a" of this section during the  
133 periods of disability prior to and following the operation, subject to the  
134 provisions of said section 34:15-14. If the employee refuses the services of  
135 the physician selected by the employer, preferring one of his own selection,  
136 the employer shall be relieved of obligations concerning medical expense due  
137 to the operation and recovery, but shall pay compensation during the prior  
138 and resulting periods of disability. If death results from the hernia or  
139 operation, the provisions of said section 34:15-13 shall apply.

140 y. The weekly compensation payments specified in this section are all  
141 subject to the same limitation as to **maximum** and **minimum** as are stated in  
142 paragraph "a" hereof.

143 z. In case of the death of the person from any cause other than the  
 144 accident, during the period of payments for permanent injury, the remain-  
 145 ing payments shall be paid to such of his or her dependents as are included in  
 146 the provisions of said section 34:15-13 or, if no dependents, the remaining  
 147 amount due, but not exceeding one hundred [and] fifty dollars (\$150.00), shall  
 148 be paid in a lump sum to the proper person for funeral expenses; but no com-  
 149 pensation shall be due any other person than the injured employee on  
 150 account of compensation being paid in excess of four hundred weeks on  
 151 account of disability total in character and permanent in quality as provided  
 152 by paragraph "b" of this section.

1 2. This act shall take effect immediately.

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STATEMENT

The purpose of this act is to do away with the arbitrary amount of money  
 and substitute the old rule of reasonable compensation.

[OFFICIAL COPY REPRINT]

SENATE, No. 55

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 2, 1942

By Mr. FARLEY

Referred to Committee on Labor, Industries and Social Welfare

AN ACT concerning workmen's compensation, and amending section 34:15-12 of  
the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. Section 34:15-12 of the Revised Statutes is amended to read as follows:  
2 34:15-12. Following is a schedule of compensation:

3 a. For injury producing temporary disability, sixty-six and two-thirds  
4 per centum (66 2/3%) of the wages received at the time of the injury, subject  
5 to a maximum compensation of twenty dollars (\$20.00) per week and a  
6 minimum of ten dollars (\$10.00) per week; if at the time of the injury the  
7 employee receives wages of less than ten dollars (\$10.00) per week, then he  
8 shall receive the full amount of such wages per week. This compensation  
9 shall be paid during the period of such disability, not, however, beyond three  
10 hundred weeks.

11 b. For disability total in character and permanent in quality, sixty-six  
12 and two-thirds per centum (66 2/3%) of the wages received at the time of  
13 injury, subject to a maximum compensation of twenty dollars (\$20.00) per  
14 week and a minimum of ten dollars (\$10.00) per week; if at the time of  
15 injury the employee received wages of less than ten dollars (\$10.00) per  
16 week then he shall receive the full amount of wages per week. This compensa-  
17 tion shall be paid for a period of four hundred weeks, at which time com-

18 pension payments shall cease unless the employee shall have submitted to  
19 such physical or educational rehabilitation as may have been ordered by the  
20 rehabilitation commission, and can show that because of such disability it is  
21 impossible for him to obtain wages or earnings equal to those earned at  
22 the time of the accident, in which case further weekly payments shall be  
23 made during the period of such disability, the amount thereof to be the  
24 previous weekly compensation payment diminished by that portion thereof  
25 that the wage, or earnings, he is then able to earn, bears to the wages  
26 received at the time of the accident. In calculating compensation for this  
27 extension beyond four hundred weeks the minimum provision of ten dollars  
28 (\$10.00) shall not apply. This extension of compensation payments beyond  
29 four hundred weeks shall be subject to such periodic reconsiderations and  
30 extensions as the case may require, and shall apply only to disability total in  
31 character and permanent in quality, and shall not apply to any accident  
32 occurring prior to July fourth, one thousand nine hundred and twenty-three.

33 c. For disability partial in character, but permanent in quality, the com-  
34 pensation shall be based upon the extent of such disability. In cases included  
35 in the following schedule the compensation shall be that named in the  
36 schedule, to wit:

37 d. For the loss of the thumb, sixty-six and two-thirds per centum  
38 (66 2/3%) of daily wages during sixty-five weeks.

39 e. For the loss of the first finger, commonly called index finger, sixty-  
40 six and two-thirds per centum (66 2/3%) of daily wages during forty weeks.

41 f. For the loss of a second finger, sixty-six and two-thirds per centum  
42 (66 2/3%) of daily wages during thirty weeks.

43 g. For the loss of a third finger, sixty-six and two-thirds per centum  
44 (66 2/3%) of daily wages during twenty weeks.

45 h. For the loss of a fourth finger, commonly called little finger, sixty-  
46 six and two-thirds per centum (66 2/3%) of daily wages during fifteen weeks.

47 i. The loss of the first phalange of the thumb or of any finger shall be  
48 considered to be equal to the loss of one-half of such thumb or finger, and

49 the compensation shall be for one-half of the periods of time above specified.  
50 The loss of any portion of the thumb or any finger between the terminal  
51 joint and the end thereof shall be compensated for a like proportion of the  
52 period of time prescribed for the loss of the first phalange of such member.

53 j. The loss of the first phalange and any portion of the second shall be  
54 considered as the loss of the entire finger or thumb, but in no case shall the  
55 amount received for more than one finger exceed the amount provided in this  
56 schedule for the loss of a hand.

57 k. For the loss of a great toe, sixty-six and two-thirds per centum  
58 (66 2/3%) of daily wages during thirty weeks.

59 l. For the loss of one of the toes other than a great toe, sixty-six and  
60 two-thirds per centum (66 2/3%) of daily wages during ten weeks.

61 m. The loss of the first phalange of any toe shall be considered to be  
62 equal to the loss of one-half of such toe, and compensation shall be for one-  
63 half of the period of time above specified.

64 n. The loss of the first phalange and any portion of the second shall be  
65 considered as the loss of the entire toe.

66 o. For the loss of a hand, sixty-six and two-thirds per centum (66 2/3%)  
67 of the daily wages during one hundred seventy-five weeks.

68 p. For the loss of an arm, sixty-six and two-thirds per centum (66 2/3%)  
69 of daily wages during two hundred thirty weeks.

70 q. For the loss of a foot, sixty-six and two-thirds per centum (66 2/3%)  
71 of daily wages during one hundred twenty-five weeks.

72 r. For the loss of a leg, sixty-six and two-thirds per centum (66 2/3%)  
73 of daily wages during one hundred seventy-five weeks.

74 s. For the loss of an eye, sixty-six and two-thirds per centum (66 2/3%)  
75 of daily wages during one hundred weeks.

76 t. For the loss of a natural tooth, sixty-six and two-thirds per centum  
77 (66 2/3%) of daily wages for four weeks for each tooth lost.

78 u. For the total loss of hearing in one ear, sixty-six and two-thirds per  
79 centum (66 2/3%) of daily wages during forty weeks. For the total loss of

80 hearing in both ears by one accident, sixty-six and two-thirds per centum  
81 (66 2/3%) of daily wages during one hundred sixty weeks.

82 v. The loss of both hands, or both arms, or both feet, or both legs, or  
83 both eyes, or any two thereof as a result of any one accident, shall constitute  
84 total and permanent disability to be compensated according to the provi-  
85 sions of paragraph "b."

86 vv. Amputation between the elbow and the wrist shall be considered as  
87 the equivalent of the loss of a hand and amputation at the elbow shall be  
88 considered equivalent to the loss of the arm. Amputation between the knee  
89 and the ankle shall be considered as the equivalent of the loss of a foot, and  
90 amputation at the knee shall be considered equivalent to the loss of the leg.

91 w. In all lesser or other cases involving permanent loss, or where the  
92 usefulness of a member or any physical function is permanently impaired, the  
93 compensation shall be sixty-six and two-thirds per centum (66 2/3%) of  
94 daily wages, and the duration of compensation shall bear such relation to the  
95 specific periods of time stated in the above schedule as the disabilities bear  
96 to those produced by the injuries named in the schedule. In cases in which  
97 the disability is determined as a percentage of total and permanent disability  
98 the duration of the compensation shall be a corresponding portion of five  
99 hundred weeks. Should the employer and employee be unable to agree upon  
100 the amount of compensation to be paid in cases not covered by the schedule,  
101 either party may appeal to the workmen's compensation bureau for a settle-  
102 ment of the controversy.

103 x. Inguinal hernia is a disease which ordinarily develops gradually,  
104 being very rarely the result of an accident. Where there is a real traumatic  
105 hernia resulting from the application of force directly to the abdominal  
106 wall, either puncturing or tearing the wall, compensation will be allowed.  
107 All other cases will be considered as either congenital or of slow develop-  
108 ment and not compensable, being a disease rather than an accidental injury;  
109 unless conclusive proof is offered that the hernia was immediately caused by  
110 such sudden effort or severe strain that, first, the descent of the hernia

111 immediately followed the cause; second, that there was severe pain in the  
112 hernial region; third, that there was such prostration that the employee was  
113 compelled to cease work immediately; fourth, that the above facts were of  
114 such severity that the same was noticed by the claimant and communicated  
115 to the employer within twenty-four hours after the occurrence of the hernia  
116 (days when the business is not in operation, such as Sundays, Saturdays or  
117 holidays shall be excluded from this twenty-four-hour period); fifth, that  
118 there was such physical distress that the attendance of a licensed physician  
119 was required within twenty-four hours after the occurrence of the hernia. In  
120 the case of hernia as above defined, the provisions of paragraph "a" of this  
121 section and sections 34:15-14 and 34:15-15 of this Title shall apply, until  
122 such time as the employee is able to resume some kind of work with the aid  
123 of a truss or other mechanical appliance. If the employee refuses to permit  
124 of an operation the employer shall meet the requirements above specified, pay  
125 the reasonable costs of the truss or other appliance found necessary, and also  
126 pay compensation for twenty weeks, following which the obligation shall  
127 cease and terminate, unless death results from the hernia, in which case the  
128 provisions of section 34:15-13 of this Title shall apply. However, if the  
129 employee shall elect to undergo an operation, by a physician selected by the  
130 employer, the employer shall meet all the expense incident to such operation  
131 and recovery together with compensation as provided in paragraph "a" of  
132 this section during the periods of disability prior to and following the opera-  
133 tion, subject to the provisions of said section 34:15-14. If the employee re-  
134 fuses the services of the physician selected by the employer, preferring one of  
135 his own selection, the employer shall be relieved of obligations concerning  
136 medical expense due to the operation and recovery, but shall pay compensa-  
137 tion during the prior and resulting periods of disability. If death results  
138 from the hernia or operation, the provisions of said section 34:15-13 shall  
139 apply.

140 y. The weekly compensation payments specified in this section are all  
141 subject to the same limitation as to maximum and minimum as are stated in  
142 paragraph "a" hereof.

143 z. In case of the death of the person from any cause other than the  
144 accident, during the period of payments for permanent injury, the remain-  
145 ing payments shall be paid to such of his or her dependents as are included in  
146 the provisions of said section 34:15-13 or, if no dependents, the remaining  
147 amount due, but not exceeding one hundred fifty dollars (\$150.00), shall  
148 be paid in a lump sum to the proper person for funeral expenses; but no com-  
149 pensation shall be due any other person than the injured employee on  
150 account of compensation being paid in excess of four hundred weeks on  
151 account of disability total in character and permanent in quality as provided  
152 by paragraph "b" of this section.

1 2. This act shall take effect immediately.

LEGISLATIVE HISTORY CHECKLIST

NJSA 34:15-13(1) & (2)

Laws of 1966 Chapter 126 § 2

Bill No. H. 760

Sponsor(s) Doren

Date Introduced May 9

Committee: Assembly Labor + Industrial Relations

Senate \_\_\_\_\_

Amended during passage  Yes  No *§ 2 not amended during passage*

Date of passage: Assembly May 23

Senate June 6

Date of approval June 17

Following statements are attached if available:

Sponsor statement Yes  No

Committee Statement: Assembly Yes  No

Senate Yes  No

Fiscal Note  Yes  No

Veto message Yes  No

Message on signing Yes  No

Following were printed:

Reports Yes  No

Hearings Yes  No

974.90  
ESS  
1968

*N.J. Waldman's Compensation Law Study  
Commission  
Report*

R.S. 34:15-12  
LEGISLATIVE FACT SHEET

ON

N.J.R.S. 34:15-12 (Work Comp - *Bene mer*)  
(1966 Amendment)

LAWS OF 1966

CHAPTER 126 JUNE 17, 1966

SENATE

ASSEMBLY 760

INTRODUCED May 9, 1966

BY *Doren [and 34 others]*

STATEMENT

YES

NO

AMENDED DURING PASSAGE

YES

NO

HEARING

No

VETO

No

Fiscal Note  
amendments

Yes  
yes

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ASSEMBLY, No. 760

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1966

By Assemblymen DOREN, BRADY, ALBANESE, HORN, YESKO, POLI-CASTRO, FARRINGTON, VOHDIN, BIANCARDI, SWEENEY, FRIEDLAND, ADDONIZIO, MANDELBAUM, LEMBO, DODD, CRYAN, FEKETY, McLEON, A. E. BROWN, BRIGIANI, WILENTZ, TANZMAN, SKEVIN, GAVAN, HIGGINS, HENDERSON, GRECCO, Assemblywoman KORDJA, Assemblymen CARLTON, WEGNER, HAMER, PERSKIE, HYLAND, BIBER and McLAUGHLIN

Referred to Committee on Labor and Industrial Relations

AN ACT concerning workmen's compensation, supplementing chapter 15 of Title 34 of the Revised Statutes, and revising parts of the statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. Section 34:15-12 of the Revised Statutes is amended to read as follows:  
2 34:15-12. Following is a schedule of compensation:

3 [a. For injury producing temporary disability, weekly compensation  
4 shall be paid based upon the weekly wage received at the time of the injury,  
5 subject to a maximum compensation of \$45.00 per week and a minimum of  
6 \$10.00 per week in accordance with the following "wage and compensation  
6A schedule," but expressly subject to the provisions of Revised Statutes  
6B 34:15-37:

WAGE AND COMPENSATION SCHEDULE

Weekly Wage	Weekly Compensation	Weekly Wage	Weekly Compensation
7 \$15.00 or less	\$10.00 min.	\$18.01-19.50	\$13.00
8 15.01-16.50	11.00	19.51-21.00	14.00
9 16.51-18.00	12.00	21.01-22.50	15.00

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

10	\$22.51-24.00	.....	\$16.00	\$45.01-47.50	.....	\$31.00
11	24.01-25.50	.....	17.00	47.51-50.00	.....	32.00
12	25.51-27.00	.....	18.00	50.01-52.50	.....	33.00
13	27.01-28.50	.....	19.00	52.51-55.00	.....	34.00
14	28.51-30.00	.....	20.00	55.01-57.00	.....	35.00
15	30.01-31.50	.....	21.00	57.51-60.00	.....	36.00
16	31.51-33.00	.....	22.00	60.01-62.50	.....	37.00
17	33.01-34.50	.....	23.00	62.51-65.00	.....	38.00
18	34.51-36.00	.....	24.00	65.01-67.50	.....	39.00
19	36.01-37.50	.....	25.00	67.51-70.00	.....	40.00
20	37.51-39.00	.....	26.00	70.01-72.50	.....	41.00
21	39.01-40.50	.....	27.00	72.51-75.00	.....	42.00
22	40.51-42.00	.....	28.00	75.01-77.50	.....	43.00
23	42.01-43.50	.....	29.00	77.51-80.00	.....	44.00
24	43.51-45.00	.....	30.00	80.01 and over	.....	45.00 max.

25 This compensation shall be paid during the period of such disability, not,  
26 however, beyond 300 weeks.】

27 a. For injury producing temporary disability, 66 2/3% of the weekly  
28 wages received at the time of the injury, subject to a maximum compensation  
29 of 66 2/3% of the average weekly wages earned by all employees covered by  
30 the Unemployment Compensation Law (R. S. 43:21-1 et seq.) and a minimum  
31 of \$15.00 a week. This compensation shall be paid during the period of such  
32 disability, not, however, beyond 300 weeks. The amount of the maximum com-  
33 pensation shall be computed, determined, rounded out to the nearest dollar,  
34 and promulgated by the Commissioner of Labor and Industry on or before  
35 September 1 in each year based on said average weekly wages as of the cal-  
36 endar year preceding, and shall be effective as to injuries occurring in the  
37 calendar year following, such promulgation. In any year in which the maxi-  
38 mum benefit rate based upon said computations would not be increased or  
39 decreased beyond \$1.00 in amount, the rate promulgated theretofore shall  
40 continue.

41     b. [For disability total in character and permanent in quality, weekly  
42 compensation shall be paid based upon the weekly wage received at the time  
43 of injury, subject to a maximum compensation of \$45.00 per week and a mini-  
44 mum of \$10.00 per week in accordance with the "wage and compensation  
45 schedule" set forth in paragraph "a" of this section but expressly subject to  
46 the provisions of Revised Statutes 34:15-37.] *For disability total in char-*  
47 *acter and permanent in quality, 66 2/3% of the weekly wages received at the*  
48 *time of injury, subject to a maximum compensation as stated in paragraph*  
49 *"a" hereof, and a minimum of \$15.00 per week. This compensation shall be*  
50 *paid for a period of 450 weeks, at which time compensation payments shall*  
51 *cease unless the employee shall have submitted to such physical or educa-*  
52 *tional rehabilitation as may have been ordered by the rehabilitation commis-*  
53 *sion, and can show that because of such disability it is impossible for him to*  
54 *obtain wages or earnings equal to those earned at the time of the accident,*  
55 *in which case further weekly payments shall be made during the period of*  
56 *such disability, the amount thereof to be the previous weekly compensation*  
57 *payment diminished by that portion thereof that the wage, or earnings, he is*  
58 *then able to earn, bears to the wages received at the time of the accident. If*  
59 *his wages or earnings equal or exceed wages received at the time of the acci-*  
60 *dent, then his compensation rate shall be reduced to \$5.00. In calculating*  
61 *compensation for this extension beyond 450 weeks the minimum provision of*  
62 **[\$10.00]** *\$15.00 shall not apply. This extension of compensation payments*  
63 *beyond 450 weeks shall be subject to such periodic reconsiderations and exten-*  
64 *sions as the case may require, and shall apply only to disability total in*  
65 *character and permanent in quality, and shall not apply to any accident occur-*  
66 *ring prior to July 4, 1923.*

67     c. For disability partial in character and permanent in quality, weekly  
68 compensation shall be paid based upon the weekly wages received at the time  
69 of the injury, subject to a maximum compensation of \$40.00 per week and a  
70 minimum of \$10.00 per week in accordance with the following "Wage and  
71 Compensation Schedule":

	<i>Weekly Wage</i>	<i>Weekly Compensation</i>		<i>Weekly Wage</i>	<i>Weekly Compensation</i>
72	\$15.00 or less	\$10.00 min.		\$37.51-39.00	\$26.00
73	15.01-16.50	11.00		39.01-40.50	27.00
74	16.51-18.00	12.00		40.51-42.00	28.00
75	18.01-19.50	13.00		42.01-43.50	29.00
76	19.51-21.00	14.00		43.51-45.00	30.00
77	21.01-22.50	15.00		45.01-47.50	31.00
78	22.51-24.00	16.00		47.51-50.00	32.00
79	24.01-25.50	17.00		50.01-52.50	33.00
80	25.51-27.00	18.00		52.51-55.00	34.00
81	27.01-28.50	19.00		55.01-57.50	35.00
82	28.51-30.00	20.00		57.51-60.00	36.00
83	30.01-31.50	21.00		60.01-62.50	37.00
84	31.51-33.00	22.00		62.51-65.00	38.00
85	33.01-34.50	23.00		65.01-67.50	39.00
86	34.51-36.00	24.00		67.51 and over	40.00 max.
87	36.01-37.50	25.00			

88 [set forth in paragraph "a" of this section, but] *Said compensation shall be*  
89 *expressly subject to the provisions of Revised Statutes 34:15-37, and shall be*  
90 *paid to the employee for the period named in the following schedule (subpara-*  
91 *graphs 1 to 23 inclusive): [.]*

	<i>Member Lost</i>	<i>Number of Weeks' Compensation</i>
92	1. Thumb	75
93	2. First finger (commonly called index finger)	50
94	3. Second finger	40
95	4. Third finger	30
96	5. Fourth finger (commonly called little finger)	20
97	6. Great toe	40
98	7. Toe, other than a great toe	15
99	8. Hand, or thumb and first and second fingers (on one	
100	hand) or 4 fingers (on one hand)	230

- 101 9. Arm ..... 300
- 102 10. Foot ..... 200
- 103 11. Leg ..... 275
- 104 12. The loss of the first phalange of the thumb or of any finger shall be  
 105 considered to be equal to the loss of  $\frac{1}{2}$  of such thumb or finger, and the com-  
 106 pensation shall be for  $\frac{1}{2}$  of the periods of time above specified. The loss of  
 107 any portion of the thumb or any finger between the terminal joint and the  
 108 end thereof shall be compensated for a like proportion of the period of time  
 109 prescribed for the loss of the first phalange of such member.
- 110 13. The loss of the first phalange and any portion of the second shall be  
 111 considered as the loss of the entire finger or thumb, but in no case shall the  
 112 amount received for more than one finger exceed the amount provided in this  
 113 schedule for the loss of a hand.
- 114 14. The loss of the first phalange of any toe shall be considered to be  
 115 equal to the loss of  $\frac{1}{2}$  of such toe, and compensation shall be for  $\frac{1}{2}$  of the  
 116 period of time above specified.
- 117 15. The loss of the first phalange and any portion of the second shall be  
 118 considered as the loss of the entire toe.
- 119 16. For the loss of vision of an eye, 200 weeks.
- 120 17. For the enucleation of an eye, 25 weeks, in addition to such compen-  
 121 sation, if any, as may be allowable under subparagraph 16.
- 122 18. For the loss of a natural tooth, 4 weeks for each tooth lost.
- 123 19. For the total loss of hearing in one ear, 60 weeks. For the total loss of  
 124 hearing in both ears by one accident, 200 weeks.
- 125 20. The loss of both hands, or both arms, or both feet, or both legs, or  
 126 both eyes, or any 2 thereof as the result of any one accident, shall constitute  
 127 total and permanent disability to be compensated according to the provi-  
 128 sions of paragraph "b."
- 129 21. Amputation between the elbow and the wrist shall be considered as the  
 130 equivalent of the loss of a hand and amputation at the elbow shall be con-  
 131 sidered equivalent to the loss of the arm. Amputation between the knee and

132 ankle shall be considered as the equivalent of the loss of a foot, and amputa-  
133 tion at the knee shall be considered equivalent to the loss of the leg.

134 22. In all lesser or other cases involving permanent loss, or where the use-  
135 fulness of a member or any physical function is permanently impaired, the  
136 duration of compensation shall bear such relation to the specific periods of  
137 time stated in the above schedule as the disabilities bear to those produced by  
138 the injuries named in the schedule. In cases in which the disability is deter-  
139 mined as a percentage of total and permanent disability the duration of the  
140 compensation shall be a corresponding portion of 550 weeks. Should the em-  
141 ployer and employee be unable to agree upon the amount of compensation to  
142 be paid in cases not covered by the schedule, either party may appeal to the  
143 Division of Workmen's Compensation for a settlement of the controversy.

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

148 d. If previous loss of function to the body, head, a member or an organ,  
149 due to any previous compensable accident or accidents, is established by com-  
150 petent evidence, and subsequently an injury arising out of and in the course  
151 of an employment occurs to that part of the body, head, member or organ,  
152 where there was a previous loss, then and in such case, the employer or his  
153 insurance carrier at the time of the subsequent injury shall not be liable  
154 for any loss for which compensation has previously been paid or awarded.  
155 In either event, credit shall be given the employer or his insurance carrier  
156 to the extent of the previous loss for which compensation has been paid.

157 e. In case of the death of the person from any cause other than the acci-  
158 dent or occupational disease, during the period of payments for permanent  
159 injury, the remaining payments shall be paid to such of his or her dependents  
160 as are included in the provisions of said section 34:15-13 or, if no dependents,  
161 the remaining amount due, but not exceeding ~~[\$400.00,]~~ \$750.00, shall be paid  
162 in a lump sum to the proper person for funeral expenses; but no compensa-  
163 tion shall be due any other person than the injured employee on account of

164 compensation being paid in excess of 450 weeks on account of disability total  
 165 in character and permanent in quality as provided by paragraph "b" of this  
 166 section.

1       2. Section 34:15-13 of the Revised Statutes is amended to read as fol-  
 2 lows:

3       34:15-13. Except as hereinafter provided, in case of death, compensation  
 4 shall be computed, but not distributed, on the following basis:

- 5       a. For one dependent, **[35%]** 50% of wages.
- 6       b. For 2 dependents, **[40%]** 55% of wages.
- 7       c. For 3 dependents, **[45%]** 60% of wages.
- 8       d. For 4 dependents, **[50%]** 65% of wages.
- 9       e. For 5 or more dependents, **[55%]** 70% of wages.

10       **[f. For 6 or more dependents, 60% of wages.]**

11       **[g.] f.** The term "dependents" shall apply to and include any or all of  
 12 the following who are dependent upon the deceased at the time of accident or  
 13 the occurrence of occupational disease, or at the time of death, namely:  
 14 Husband, wife, parent, stepparents, grandparents, children, stepchildren,  
 15 grandchildren, child in esse, posthumous child, illegitimate children, brothers,  
 16 sisters, half brothers, half sisters, niece, nephew. Legally adopted children  
 17 shall, in every particular, be considered as natural children. Dependency  
 18 shall be conclusively presumed as to the decedent's widow and to the natural  
 19 children under 18 years of age of a male or female decedent who were ac-  
 20 tually a part of the decedent's household at the time of his death. Every  
 21 provision of this article applying to one class shall be equally applicable to  
 22 the other. Should any dependent of a deceased employee die during the  
 23 period covered by such weekly payments the right of such dependent to  
 24 compensation under this section shall cease but should the widow of a de-  
 25 ceased employee remarry during such period and before the total compen-  
 26 sation is paid, she shall be entitled to receive the remainder of the compen-  
 27 sation which would have been due her had she not remarried, or \$1,000.00  
 28 whichever is the lesser. The foregoing schedule applies only to persons

29 wholly dependent, and in the case of persons only partially dependent, ex-  
30 cept in the case of the widow and children who were actually a part of the  
31 decedent's household at the time of his death, the compensation shall be  
32 such proportion of the scheduled percentage as the amounts actually con-  
33 tributed to them by the deceased for their support constituted of his total  
34 wages and the provision as to a ~~[\$10.00]~~ \$15.00 minimum shall not apply  
35 to such compensation. In determining the number of dependents, where  
36 the deceased employee was a minor, the number of persons dependent  
37 upon the deceased employee shall be determined in the same way as if the  
38 deceased employee were an adult, notwithstanding any rule of law as to the  
39 person entitled to a minor's wages.

40 **[h.]** *g.* Compensation shall be computed upon the foregoing basis. Dis-  
41 tribution shall be made among dependents, if more than one, according to  
42 the order of the Division of Workmen's Compensation, which shall, when  
43 applied to for that purpose determine, upon the facts being presented to  
44 it, the proportion to be paid to or on behalf of each dependent according to  
45 the relative dependency. Payment on behalf of infants shall be made to the  
46 surviving parent, if any, or to the statutory or testamentary guardian.

47 **[i.]** *h.* If death results from the accident or occupational disease,  
48 whether there be dependents or not, expenses of the last sickness of the  
49 deceased employee shall be paid in accordance with the provisions for medi-  
50 cal and hospital service as set forth in section 34:15-15 of this Title. Also  
51 the cost of burial, not to exceed ~~[\$400.00]~~ \$750.00, shall be paid to the de-  
52 pendent or other person having paid said costs of burial. In the event that  
53 the said dependent or other person has paid less than ~~[\$400.00]~~ \$750.00 the  
54 said dependent or other person shall be reimbursed in the amount paid and,  
55 if the costs of burial exceed the amount so paid, the difference between the  
56 said amount and ~~[\$400.00]~~ \$750.00 or so much thereof as may be necessary to  
57 pay the cost of burial, shall be paid to the undertaker or embalmer. In the  
58 event that no part of the costs of burial has been paid, the amount of such  
59 cost of burial, not to exceed ~~[\$400.00,]~~ \$750.00, shall be paid to the under-  
60 taker or embalmer.

61     **[j.]** *i.* In computing compensation to those named in this section, except  
 62 husband, wife, parents and stepparents, only those under 18 or over 40 years of  
 63 age shall be included and then only for that period in which they are under 18  
 64 or over 40; provided, however, that payments to such physically or mentally  
 65 deficient persons as are for such reason dependent shall be made during the  
 66 full compensation period of **[350]** 450 weeks.

67     **[k.]** *j.* The maximum compensation in case of death shall be **[\$40.00** per  
 68 week and the minimum \$10.00] *subject to the maximum compensation as stated*  
 69 *in paragraph "a" of section 34:15-12 of this Title and a minimum of \$15.00*  
 70 *per week, except in the case of partial dependency as provided in this section.*  
 71 *This compensation shall be paid, in the case of a widow, during the entire*  
 72 *period of widowhood except that any earnings from employment by the*  
 73 *widow after 450 weeks of compensation have been paid shall be deducted from*  
 74 *the compensation thereafter payable to the widow and, in the case of other*  
 75 *dependents, during [350] 450 weeks and if at the expiration of [350] 450 weeks*  
 76 *there shall be one or more dependents under 18 years of age compensation*  
 77 *shall be continued for such dependents until they reach 18 years of age at*  
 78 *the schedule provided under paragraphs "a" to ["f"] "e" of this section.*

1     3. Section 34:15-14 of the Revised Statutes is amended to read as follows:

2     34:15-14. No compensation other than medical aid shall accrue and be  
 3 payable until the employee has been disabled 7 days, whether the days of  
 4 disability immediately follow the accident, or whether they be consecutive  
 5 or not. These days shall be termed the waiting period. The day that the  
 6 employee is unable to continue at work by reason of his accident, whether  
 7 it be the day of the accident or later, shall count as one whole day of the  
 8 waiting period. Should the total period of disability extend beyond **[4**  
 9 **weeks]** 7 days, additional compensation shall at once become payable cover-  
 10 ing the above prescribed waiting period.

1     4. Section 34:15-16 of the Revised Statutes is amended to read as follows:

2     34:15-16. Compensation for all classes of injuries shall run consecu-  
 3 tively, and not concurrently, except as provided in this section and in section

4 34:15-15 of this Title, as follows: First, medical and hospital services and  
5 medicines as provided in said section 34:15-15. After the waiting period,  
6 compensation during temporary disability. If total period of disability ex-  
7 tends beyond **[4 weeks,]** *7 days*, compensation to cover waiting period. Fol-  
8 lowing both, either or none of the above, compensation consecutively for  
9 each permanent injury, except that permanent disability, total or partial,  
10 shall not be determined or awarded until after 26 weeks from the date of  
11 the employee's final active medical treatment, or until after 26 weeks from  
12 the date of the employee's return to work, whichever is earlier, or, if no  
13 time is lost or no treatment is rendered, then permanent disability, total or  
14 partial, shall not be determined or awarded until after 26 weeks from the  
15 date of the accident, except in cases of amputation or enucleation or death  
16 from other cause within that time and except when earlier determination of  
17 permanent disability is waived by the employer or his insurance carrier.  
18 Nothing herein contained shall prevent an employer or his insurance carrier  
19 from paying permanent disability compensation voluntarily prior to the ex-  
20 piration of the 26-week period. Following any or all or none of the above,  
21 if death results from the accident, expenses of last sickness and burial. Fol-  
22 lowing which compensation to dependents, if any.

23       Where an employer or his insurance carrier desires to pay for or fur-  
24 nish compensation, medical, surgical, or hospital treatment, drugs, ortho-  
25 pedic or prosthetic appliances, after the date when payments under sections  
26 34:15-12 and 34:15-13 of this Title have terminated, the employer or his in-  
27 surance carrier may, in writing, reserve the defense of the jurisdictional  
28 limitations provided by sections 34:15-27, 34:15-34, 34:15-41 and 34:15-51  
29 of this Title; provided, that the reservation is approved by a deputy direc-  
30 tor after advising the petitioner personally of his rights and of the effect  
31 of such reservation.

1       5. Section 34:15-34 of the Revised Statutes is amended to read as follows:  
2       34:15-34. All claims for compensation for compensable occupational dis-  
3 ease shall be barred unless a petition is filed in duplicate with the secretary  
4 of the **[workmen's compensation bureau, at the State House]** *division* in

5 Trenton, within 2 years after the date on which the employee ceased to be  
6 exposed in the course of employment with the employer to such occupa-  
7 tional disease as hereinabove defined, or within 1 year after the employee  
8 knew or ought to have known the nature of his disability and its relation  
9 to his employment, whichever period is later in duration. In case an agree-  
10 ment of compensation for compensable occupational disease has been made  
11 between such employer and such claimant, then an employee's claim for  
12 compensation shall be barred unless a petition for compensation is duly  
13 filed with such secretary within 2 years after the failure of the employer  
14 to make payment pursuant to the terms of such agreement; or in case a  
15 part of the compensation has been paid by such employer, then within 2 years  
16 after the last payment of compensation.

17 Notwithstanding any provision of this section hereinabove set forth, all  
18 claims for compensation for compensable occupational disease hereunder  
19 shall be forever barred unless a petition is filed in duplicate with the sec-  
20 retary of [the workmen's compensation bureau] *the Division of Workmen's*  
21 *Compensation*, in Trenton, within 5 years after the date on which the em-  
22 ployee ceased to be exposed in the course of employment with the employer  
23 to such occupational disease; provided, however, that in the event of death  
24 of an employee who has been paid compensation on account of a compensable  
25 occupational disease, a petition on behalf of dependents, as defined in section  
26 34:15-13[g] B of the Revised Statutes, shall be timely if filed within 2  
27 years after the date of last payment to the employee notwithstanding such  
28 period of 2 years or any part thereof extends beyond the 5-year period  
29 hereinabove set forth.

30 A payment or agreement to pay by the insurance carrier shall, for the  
31 purpose of this section, be deemed a payment or agreement by the employer.

32 *In any case wherein claim is made for radiation poisoning as an occu-*  
33 *pational disease more than 2 years after the date upon which the employee*  
34 *ceased to be exposed in the course of employment with exposure to such*  
35 *occupational disease, the aforesaid 5-year limitation shall not apply, except-*  
36 *ing, however, that the claim petition must be filed in duplicate with the*

37 *Secretary of the Division of Workmen's Compensation within 1 year after*  
38 *the employee knew or ought to have known the nature of the claimed dis-*  
39 *ability and its relation to his employment.*

1     6. Section 34:15-37 of the Revised Statutes is amended to read as fol-  
2 lows:

3     34:15-37. "Wages," when used in this chapter, shall be construed to  
4 mean the money rate at which the service rendered is recompensed under  
5 the contract of hiring in force at the time of the accident. Board and lodg-  
6 ing when furnished by the employer as part of the wages shall be included  
7 and valued at ~~[\$8.00]~~ \$25.00 per week, unless the money value of such ad-  
8 vantages shall have been otherwise fixed by the parties at the time of hiring.  
9 Where prior to the accident, the rate of wages is fixed by the output of the  
10 employee, the daily wages shall be calculated by dividing the number of days  
11 the workman was actually employed into the total amount the employee  
12 earned during the preceding 6 months, or so much thereof as shall refer to  
13 employment by the same employer. When the rate of wages is fixed by the  
14 hour, the daily wage shall be found by multiplying the hourly rate by the cus-  
15 tomary number of working hours constituting an ordinary day in the  
16 character of the work involved. In any case the weekly wage shall be  
17 found by multiplying the daily wage by 5, or if the employee worked a  
18 greater proportion of the week regularly, then by 5½, 6, 6½ or 7, according  
19 to the customary number of working days constituting an ordinary week in  
20 the character of the work involved. Five days shall constitute a minimum  
21 week. Gratuities, received regularly in the course of employment from other  
22 than the employer, shall be included in determining the weekly wage only in  
23 those cases where the employer or employee has kept a regular daily or  
24 weekly record of the amount of gratuities so received. In such cases the  
25 average weekly amount of gratuities over a period of 6 months, or for the  
26 entire time of employment, whichever period is less, shall be added to the  
27 fixed weekly wage to determine the employee's total weekly wage. If no such  
28 record has been kept, then the average amount of the weekly gratuities shall

29 be fixed [as \$10.00 per week,] by the judge of compensation or the referee  
30 hearing the matter.

1 7. Section 34:15-38 of the Revised Statutes is amended to read as fol-  
2 lows:

3 34:15-38. To calculate the number of weeks and fraction thereof that  
4 compensation is payable for temporary disability, determine the number of  
5 calendar days of disability from and including as a full day the day that the  
6 employee is first unable to continue at work by reason of the accident, in-  
7 cluding also Saturdays, Sundays and holidays, up to the first working day  
8 that the employee is able to resume work and continue permanently thereat;  
9 subtract from this number the waiting period and any days and fraction  
10 thereof the employee was able to work during this time, and divide the re-  
11 mainder by 7. If, however, the total period of disability extends beyond  
12 [4 weeks] 7 days, the waiting period shall not be subtracted from the  
13 number indicated above. The resulting whole number and sevenths will be  
14 the required period for which compensation is payable on account of tempo-  
15 rary disability.

1 8. Section 34:15-79 of the Revised Statutes is amended to read as fol-  
2 lows:

3 34:15-79. An employer who shall fail to provide the protection pre-  
4 scribed in this article shall be guilty of a misdemeanor, and upon conviction  
5 thereof shall be punished by a fine of not more than \$1,000.00 or by imprison-  
6 ment for not more than 60 days or by both such fine and imprisonment, and  
7 in cases where a workmen's compensation award in the *Division of Work-*  
8 *men's Compensation* [Bureau] of New Jersey against the defendant is not  
9 paid at the time of the sentence, the court may suspend sentence upon such  
10 defendant and place him on probation for any period with an order to pay  
11 said compensation award to the claimant through the probation office of  
12 the county. Where the employer is a corporation, the president, secretary,  
13 and treasurer thereof who are actively engaged in the corporate business  
14 shall be liable for failure to secure the protection prescribed by this article.  
15 Any contractor placing work with a subcontractor shall, in the event of the

16 subcontractor's failing to carry workmen's compensation insurance as re-  
17 quired by this article, become liable for any compensation which may be due  
18 an employee or the dependents of a deceased employee of a subcontractor.  
19 The contractor shall then have a right of action against the subcontractor  
20 for reimbursement.

21 All fines collected under the terms of this clause shall be paid to the  
22 State Treasurer and credited on the records of the State Comptroller to  
23 the account of the Rehabilitation Commission for Physically Handicapped  
24 Persons, to be used in carrying out the provisions of chapter 16 of this  
25 Title 34:16-1, et seq.

26 *The director or any officer or employee of the division designated by*  
27 *him, upon finding that an employer has failed for a period of not less than 10*  
28 *consecutive days to make the provisions for payment of compensation re-*  
29 *quired by sections 34:15-71 and 34:15-72 of this Title, may impose upon*  
30 *such employer, in addition to all other penalties, fines or assessments pro-*  
31 *vided for in chapter 15 of Title 34 or in any supplement thereto, an assess-*  
32 *ment in the amount of \$25.00 and when such period exceeds 20 days, an addi-*  
33 *tional assessment of \$25.00 for each period of 10 days thereafter, but no em-*  
34 *ployer shall be assessed more than \$10.00 at any one time. Such assessments*  
35 *shall be paid into the uninsured employers fund.*

1 9. Section 34:15-90 of the Revised Statutes is amended to read as fol-  
2 lows:

3 34:15-90. No mutual association or stock company shall be authorized  
4 to write compensation or liability insurance in the State unless it is a mem-  
5 ber of the compensation rating and inspection bureau.

6 Each member of the bureau writing such insurance shall be represented  
7 by one representative and shall be entitled to one vote in the administration  
8 of bureau affairs.

9 The bureau shall adopt such rules and regulations for its procedure and  
10 provide such income as may be necessary for its maintenance and operation.

11 The Commissioner of Banking and Insurance shall appoint a special  
12 deputy to be ex-officio chairman of the bureau. *Such deputy shall serve with*

24 lection is made prior or subsequent to entry of judgment against such em-  
25 ployer, shall be deemed in payment of and applicable first in satisfaction  
26 of any compensation and benefits due from such employer with respect to  
27 such claim and security demand, if any, in connection therewith and only  
28 when such obligations are satisfied in full shall the balance of said sums  
29 collected, if any, be deemed payment in satisfaction of and applicable to the  
30 assessments above prescribed in this section.

31 All sums recovered from uninsured employers on judgments entered  
32 for failure to pay assessments as hereinafter provided and for failure to  
33 pay compensation and benefits which were paid from the fund herein created,  
34 shall upon such recovery be paid into said fund.

1 11. In any case in which a claim for compensation is filed pursuant to  
2 the provisions of chapter 15 of Title 34 of the Revised Statutes and the em-  
3 ployer has failed to secure the payment of compensation as required by  
4 section 34:15-71 or section 34:15-72 of the Revised Statutes and to make  
5 payment of compensation according to the terms of any award within 45  
6 days thereafter and fails or refuses to deposit with the director within 10  
7 days after demand the commuted or estimated value of the compensation  
8 payable under the award as security for prompt and convenient payment of  
9 such compensation periodically as it accrues, then and in such event, unless  
10 a notice of appeal has been timely filed, the award shall be payable out of  
11 the "uninsured employers' fund," but no extra compensation or death bene-  
12 fit pursuant to section 34:15-10 shall be payable from the fund.

1 12. In case of default by an uninsured employer in the payment of any  
2 compensation due under an award for a period of 45 days after payment is  
3 due and payable and the uninsured employer fails or refuses to deposit with  
4 the director within 10 days after demand the commuted or estimated value  
5 of the compensation payable under the award as security for prompt and  
6 convenient payment of such compensation periodically as it accrues, or in  
7 case of failure by an employer, within 20 days after it is due to pay any  
8 assessment imposed by the director pursuant to section 34:15-79 of the

9 Revised Statutes or section 38 of this act, the director in any such case may  
10 file with the Clerk of the Superior Court, (1) a statement containing the find-  
11 ings of fact, conclusions of law, award and judgment of the officer making the  
12 award which is in default together with a certified copy of the demand for  
13 deposit of security, or (2) a certified copy of the director's order imposing,  
14 and the demand for payment of, such assessment, and, thereupon, shall have  
15 the same effect and may be collected and docketed in the same manner as  
16 judgments rendered in causes tried in the Superior Court. The court shall  
17 vacate or modify such judgment to conform to any later award or decision  
18 by any authorized officer of the division or by the Board of Workmen's Com-  
19 pensation Appeals upon presentation of a statement thereof as provide for  
20 above. The award may be compromised by the Commissioner of Labor and  
21 Industry as in his discretion may best serve the interest of the persons  
22 entitled to receive the compensation or benefits.

1 13. Notwithstanding the provisions of any other section of this act, no  
2 payments shall be made from the uninsured employers' fund except upon  
3 application to and approval by the Commissioner of Labor and Industry.  
4 Review of any decision by the commissioner shall be in accordance with sec-  
5 tion 34:15-66 of the Revised Statutes. In no event, however, shall any pay-  
6 ments be made from the fund until the total amount therein exceeds  
7 \$100,000.00, and thereafter only to the extent of the amount in the fund  
8 exceeding \$100,000.00, and, in any case, only for injuries and deaths resulting  
9 therefrom occurring after the fund reaches \$100,000.00.

1 14. To the extent of the compensation and benefits paid or payable to an  
2 employee or his dependents from the uninsured employers' fund, the fund,  
3 by subrogation, shall be entitled to all the rights, powers and benefits of the  
4 employee or his dependents against the employer arising under the provi-  
5 sions of chapter 15 of Title 34 of the Revised Statutes; and in any case or  
6 situation contemplated by section 34:15-40 of the Revised Statutes, the fund,  
7 shall have the same rights as the employer.

1 15. The commissioner shall annually submit an accounting of the fund to  
2 the State Treasurer. Payments to applicants from said fund shall be made  
3 by the State Treasurer upon warrants of the Commissioner of Labor and  
4 Industry.

1 16. The commissioner may make all necessary rules and regulations  
2 necessary for the processing and payment of compensation out of the unin-  
3 sured employers' fund.

1 17. The liability of the uninsured employers' fund and the State with  
2 respect to payment of any compensation, benefits, expenses, fees for disburse-  
3 ments properly chargeable against the fund shall be limited to the assets in  
4 the fund as exceed \$100,000.00 and the fund and the State shall not otherwise  
5 in any way or manner be liable for the making of any such payment.

1 18. There is hereby created a commission to study the workmen's com-  
2 pensation law.

3 a. Said commission shall consist of 15 members, 2 to be appointed from  
4 the membership of the Senate by the President thereof, no more than one  
5 of whom shall be of the same political party and 2 to be appointed from the  
6 membership of the General Assembly by the Speaker thereof, no more than  
7 one of whom shall be of the same political party, and 11 to be appointed by  
8 the Governor. Vacancies in the membership of the commission shall be filled  
9 in the same manner as the original appointments were made.

10 b. The commission shall organize as soon as may be after the appoint-  
11 ment of its members and shall select a chairman from among its members  
12 and a secretary who need not be a member of the commission.

13 c. It shall be the duty of said commission to study the areas of perma-  
14 nent partial disability benefits, the second injury fund, administrative proce-  
15 dures and judicial review and such other aspects of the workmen's compen-  
16 sation law as it deems advisable, and to make recommendations to the end  
17 that employees be justly compensated for all injuries covered by the law, that  
18 the highest possible rate of employment of the handicapped be encouraged and  
19 that a speedy and efficient procedure for the disposition of claims be provided.

20 d. The commission shall be entitled to call to its assistance and avail itself  
21 of the services of such employees of any State, county or municipal depart-  
22 ment, board, bureau, commission or agency as it may require and as may be  
23 available to it for said purpose, and to employ such legal, technical, steno-  
24 graphic and clerical assistants and incur such traveling and other miscellan-  
25 eous expenses as it may deem necessary, in order to perform its duties, and  
26 as may be within the limits of funds appropriated or otherwise made avail-  
27 able to it for said purposes.

28 e. The commission may meet and hold hearings at such place or places as  
29 it shall designate and shall report its findings and recommendations to the  
30 Governor and the Legislature on or before the second Tuesday in January,  
31 1967.

32 f. There is hereby appropriated to the commission the sum of \$25,000.00  
33 to carry out the purposes of this act.

1 19. This act shall take effect January 1, 1967, except that section 18 shall  
2 take effect immediately.

26 to the terms of such agreement; or in case a part of the compen-  
27 sation has been paid by such employer, then within 2 years after  
28 the last payment of compensation.

29-38 [Notwithstanding any provision of this section hereinabove set  
39 forth, all claims for compensation for compensable occupational  
40 disease hereunder shall be forever barred unless a petition is filed  
41 in duplicate with the secretary of the Division of Workmen's  
42 Compensation, in Trenton, within 5 years after the date on which  
43 the employee ceased to be exposed in the course of employment  
44 with the employer to such occupational disease; provided, how-  
45 ever, that in the event of death of an employee who has been paid  
46 compensation on account of a compensable occupational disease,  
47 a petition on behalf of dependents, as defined in R. S. 34:15-13f,  
48 shall be timely if filed within 2 years after the date of last payment  
49 to the employee notwithstanding such period of 2 years or any  
50 part thereof extends beyond the 5-year period hereinabove set  
51 forth.]

52 A payment or agreement to pay by the insurance carrier shall,  
53 for the purpose of this section, be deemed a payment or agreement  
54 by the employer.

55 [In any case wherein claim is made for radiation poisoning,  
56 siderosis, anthroacosis, silicosis, mercury poisoning, beryllium  
57 poisoning, chrome poisoning or lead poisoning, as an occupational  
58 disease more than 2 years after the date upon which the employee  
59 ceased to be exposed in the course of employment with exposure  
60 to such occupational disease, the aforesaid 5-year limitation shall  
61 not apply, excepting, however, that the claim petition must be filed  
62 in duplicate with the secretary of the Division of Workmen's Com-  
63 pensation within 1 year after the employee knew or ought to have  
64 known the nature of the claimed disability and its relation to his  
65 employment.]

. 1 2. This act shall take effect immediately.

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#### STATEMENT

Occupational diseases are often of such an insidious nature that they do not become evident until years after exposure to the cause thereof. This bill memorializes this fact by abrogating the burdensome and arbitrary time restrictions presently in effect within which a claim for compensation must be filed, and which in fact may easily lapse before even the symptoms of disease are evident. As herein prescribed, a claim would be permitted within 2 years after the claimant had actual knowledge of the nature of the disability and its relation to the employment.

This bill would correct two deficiencies in the present law :

1. It changes the 50% cost-of-living adjustment for inflation occurring after 1966 to 100%. The current law is only a half-way measure. The proposal of 100% would complete the adjustment program.
2. It reduces the waiting time to participate in the cost-of-living adjustment program from 3 to 4 years after the date of retirement to 2 to 3 years.

FISCAL NOTE TO  
**ASSEMBLY, No. 760**

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**STATE OF NEW JERSEY**

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DATED: JUNE 6, 1966

Assembly Bill No. 760 would amend the Workmen's Compensation Law to increase temporary and total disability benefits; increases dependents benefits, and increases burial expenses from \$400.00 to \$750.00; effective March 1, 1967.

The Department of Labor and Industry estimates that if Assembly Bill No. 760 is enacted into law, the increased cost to the State would be approximately \$18,000.00 annually.

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In compliance with written request received, there is hereby submitted a fiscal estimate for the above bill, pursuant to P. L. 1962, c. 27.

L 1966, c. 126

SENATE AMENDMENTS TO  
**ASSEMBLY, No. 760**  
[OFFICIAL COPY REPRINT]

**STATE OF NEW JERSEY**

ADOPTED MAY 31, 1966

Amend page 19, section 19, line 1, delete "January", and insert in lieu thereof "March".

Amend page 19, section 19, line 3, delete "January", and insert in lieu thereof "March".

L1966,c.126

ASSEMBLY COMMITTEE AMENDMENTS TO

ASSEMBLY, No. 760 .

**STATE OF NEW JERSEY**

ADOPTED MAY 16, 1966

Amend page 11, section 5, line 26, delete "B", and insert in lieu thereof "f".

Amend page 14, section 8, lines 34 and 35, delete "Such assessments shall be paid into the uninsured employers fund.", and insert in lieu thereof "All assessments under this act shall be collectible in a court of competent jurisdiction in a summary civil proceeding and shall be paid into the uninsured employers fund.".

Amend page 17, section 12, lines 18 and 19, after the word "division", delete "or by the Board of Workmen's Compensation Appeals".

Amend page 19, section 19, lines 1 and 2, after "1967,", delete "except that section 18 shall take effect immediately", and insert in lieu thereof "provided, however, that such administrative action as is necessary to implement this act on January 1, 1967 may be taken prior thereto and provided further that section 18 of this act shall take effect immediately".

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 760

STATE OF NEW JERSEY

INTRODUCED MAY 9, 1966

By Assemblymen DOREN, BRADY, ALBANESE, HORN, YESKO, POLI-CASTRO, FARRINGTON, VOHDIN, BIANCARDI, SWEENEY, FRIEDLAND, ADDONIZIO, MANDELBAUM, LEMBO, DODD, CRYAN, FEKETY, McLEON, A. E. BROWN, BRIGIANI, WILENTZ, TANZMAN, SKEVIN, GAVAN, HIGGINS, HENDERSON, GRECCO, Assemblywoman KORDJA, Assemblymen CARLTON, WEGNER, HAMER, PERSKIE, HYLAND, BIBER and McLAUGHLIN

Referred to Committee on Labor and Industrial Relations

AN ACT concerning workmen's compensation, supplementing chapter 15 of Title 34 of the Revised Statutes, and revising parts of the statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*  
2 *Jersey:*

1 1. Section 34:15-12 of the Revised Statutes is amended to read as follows:

2 34:15-12. Following is a schedule of compensation:

3 **[a.** For injury producing temporary disability, weekly compensation  
4 shall be paid based upon the weekly wage received at the time of the injury,  
5 subject to a maximum compensation of \$45.00 per week and a minimum of  
6 \$10.00 per week in accordance with the following "wage and compensation  
6A schedule," but expressly subject to the provisions of Revised Statutes  
6B 34:15-37:

WAGE AND COMPENSATION SCHEDULE

Weekly Wage	Weekly Compensation	Weekly Wage	Weekly Compensation
7 \$15.00 or less	..... \$10.00 min.	\$18.01-19.50	..... \$13.00
8 15.01-16.50	..... 11.00	19.51-21.00	..... 14.00
9 16.51-18.00	..... 12.00	21.01-22.50	..... 15.00

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

10	\$22.51-24.00	.....	\$16.00	\$45.01-47.50	.....	\$31.00
11	24.01-25.50	.....	17.00	47.51-50.00	.....	32.00
12	25.51-27.00	.....	18.00	50.01-52.50	.....	33.00
13	27.01-28.50	.....	19.00	52.51-55.00	.....	34.00
14	28.51-30.00	.....	20.00	55.01-57.00	.....	35.00
15	30.01-31.50	.....	21.00	57.51-60.00	.....	36.00
16	31.51-33.00	.....	22.00	60.01-62.50	.....	37.00
17	33.01-34.50	.....	23.00	62.51-65.00	.....	38.00
18	34.51-36.00	.....	24.00	65.01-67.50	.....	39.00
19	36.01-37.50	.....	25.00	67.51-70.00	.....	40.00
20	37.51-39.00	.....	26.00	70.01-72.50	.....	41.00
21	39.01-40.50	.....	27.00	72.51-75.00	.....	42.00
22	40.51-42.00	.....	28.00	75.01-77.50	.....	43.00
23	42.01-43.50	.....	29.00	77.51-80.00	.....	44.00
24	43.51-45.00	.....	30.00	80.01 and over	.....	45.00 max.

25 This compensation shall be paid during the period of such disability, not,  
26 however, beyond 300 weeks.】

27 a. For injury producing temporary disability, 66 2/3% of the weekly  
28 wages received at the time of the injury, subject to a maximum compensation  
29 of 66 2/3% of the average weekly wages earned by all employees covered by  
30 the Unemployment Compensation Law (R. S. 43:21-1 et seq.) and a minimum  
31 of \$15.00 a week. This compensation shall be paid during the period of such  
32 disability, not, however, beyond 300 weeks. The amount of the maximum com-  
33 pensation shall be computed, determined, rounded out to the nearest dollar,  
34 and promulgated by the Commissioner of Labor and Industry on or before  
35 September 1 in each year based on said average weekly wages as of the cal-  
36 endar year preceding, and shall be effective as to injuries occurring in the  
37 calendar year following, such promulgation. In any year in which the maxi-  
38 mum benefit rate based upon said computations would not be increased or  
39 decreased beyond \$1.00 in amount, the rate promulgated theretofore shall  
40 continue.

41 b. [For disability total in character and permanent in quality, weekly  
42 compensation shall be paid based upon the weekly wage received at the time  
43 of injury, subject to a maximum compensation of \$45.00 per week and a mini-  
44 mum of \$10.00 per week in accordance with the "wage and compensation  
45 schedule" set forth in paragraph "a" of this section but expressly subject to  
46 the provisions of Revised Statutes 34:15-37.] *For disability total in char-*  
47 *acter and permanent in quality, 66 2/3% of the weekly wages received at the*  
48 *time of injury, subject to a maximum compensation as stated in paragraph*  
49 *"a" hereof, and a minimum of \$15.00 per week. This compensation shall be*  
50 *paid for a period of 450 weeks, at which time compensation payments shall*  
51 *cease unless the employee shall have submitted to such physical or educa-*  
52 *tional rehabilitation as may have been ordered by the rehabilitation commis-*  
53 *sion, and can show that because of such disability it is impossible for him to*  
54 *obtain wages or earnings equal to those earned at the time of the accident,*  
55 *in which case further weekly payments shall be made during the period of*  
56 *such disability, the amount thereof to be the previous weekly compensation*  
57 *payment diminished by that portion thereof that the wage, or earnings, he is*  
58 *then able to earn, bears to the wages received at the time of the accident. If*  
59 *his wages or earnings equal or exceed wages received at the time of the acci-*  
60 *dent, then his compensation rate shall be reduced to \$5.00. In calculating*  
61 *compensation for this extension beyond 450 weeks the minimum provision of*  
62 ~~[\$10.00]~~ *\$15.00 shall not apply. This extension of compensation payments*  
63 *beyond 450 weeks shall be subject to such periodic reconsiderations and exten-*  
64 *sions as the case may require, and shall apply only to disability total in*  
65 *character and permanent in quality, and shall not apply to any accident occur-*  
66 *ring prior to July 4, 1923.*

67 c. For disability partial in character and permanent in quality, weekly  
68 compensation shall be paid based upon the weekly wages received at the time  
69 of the injury, subject to a maximum compensation of \$40.00 per week and a  
70 minimum of \$10.00 per week in accordance with the following "Wage and  
71 Compensation Schedule":

<i>Weekly Wage</i>	<i>Weekly Compensation</i>	<i>Weekly Wage</i>	<i>Weekly Compensation</i>
72 \$15.00 or less	\$10.00 min.	\$37.51-39.00	\$26.00
73 15.01-16.50	11.00	39.01-40.50	27.00
74 16.51-18.00	12.00	40.51-42.00	28.00
75 18.01-19.50	13.00	42.01-43.50	29.00
76 19.51-21.00	14.00	43.51-45.00	30.00
77 21.01-22.50	15.00	45.01-47.50	31.00
78 22.51-24.00	16.00	47.51-50.00	32.00
79 24.01-25.50	17.00	50.01-52.50	33.00
80 25.51-27.00	18.00	52.51-55.00	34.00
81 27.01-28.50	19.00	55.01-57.50	35.00
82 28.51-30.00	20.00	57.51-60.00	36.00
83 30.01-31.50	21.00	60.01-62.50	37.00
84 31.51-33.00	22.00	62.51-65.00	38.00
85 33.01-34.50	23.00	65.01-67.50	39.00
86 34.51-36.00	24.00	67.51 and over	40.00 max.
87 36.01-37.50	25.00		

88 [set forth in paragraph "a" of this section, but] *Said compensation shall be*  
 89 expressly subject to the provisions of Revised Statutes 34:15-37, and shall be  
 90 paid to the employee for the period named in the following schedule (subpara-  
 91 graphs 1 to 23 inclusive): [.]

<i>Member Lost</i>	<i>Number of Weeks' Compensation</i>
92 1. Thumb	75
93 2. First finger (commonly called index finger)	50
94 3. Second finger	40
95 4. Third finger	30
96 5. Fourth finger (commonly called little finger)	20
97 6. Great toe	40
98 7. Toe, other than a great toe	15
99 8. Hand, or thumb and first and second fingers (on one 100 hand) or 4 fingers (on one hand)	230

- 101     9. Arm ..... 300
- 102     10. Foot ..... 200
- 103     11. Leg ..... 275
- 104     12. The loss of the first phalange of the thumb or of any finger shall be  
 105 considered to be equal to the loss of  $\frac{1}{2}$  of such thumb or finger, and the com-  
 106 pensation shall be for  $\frac{1}{2}$  of the periods of time above specified. The loss of  
 107 any portion of the thumb or any finger between the terminal joint and the  
 108 end thereof shall be compensated for a like proportion of the period of time  
 109 prescribed for the loss of the first phalange of such member.
- 110     13. The loss of the first phalange and any portion of the second shall be  
 111 considered as the loss of the entire finger or thumb, but in no case shall the  
 112 amount received for more than one finger exceed the amount provided in this  
 113 schedule for the loss of a hand.
- 114     14. The loss of the first phalange of any toe shall be considered to be  
 115 equal to the loss of  $\frac{1}{2}$  of such toe, and compensation shall be for  $\frac{1}{2}$  of the  
 116 period of time above specified.
- 117     15. The loss of the first phalange and any portion of the second shall be  
 118 considered as the loss of the entire toe.
- 119     16. For the loss of vision of an eye, 200 weeks.
- 120     17. For the enucleation of an eye, 25 weeks, in addition to such compen-  
 121 sation, if any, as may be allowable under subparagraph 16.
- 122     18. For the loss of a natural tooth, 4 weeks for each tooth lost.
- 123     19. For the total loss of hearing in one ear, 60 weeks. For the total loss of  
 124 hearing in both ears by one accident, 200 weeks.
- 125     20. The loss of both hands, or both arms, or both feet, or both legs, or  
 126 both eyes, or any 2 thereof as the result of any one accident, shall constitute  
 127 total and permanent disability to be compensated according to the provi-  
 128 sions of paragraph "b."
- 129     21. Amputation between the elbow and the wrist shall be considered as the  
 130 equivalent of the loss of a hand and amputation at the elbow shall be con-  
 131 sidered equivalent to the loss of the arm. Amputation between the knee and

132 ankle shall be considered as the equivalent of the loss of a foot, and amputa-  
133 tion at the knee shall be considered equivalent to the loss of the leg.

134 22. In all lesser or other cases involving permanent loss, or where the use-  
135 fulness of a member or any physical function is permanently impaired, the  
136 duration of compensation shall bear such relation to the specific periods of  
137 time stated in the above schedule as the disabilities bear to those produced by  
138 the injuries named in the schedule. In cases in which the disability is deter-  
139 mined as a percentage of total and permanent disability the duration of the  
140 compensation shall be a corresponding portion of 550 weeks. Should the em-  
141 ployer and employee be unable to agree upon the amount of compensation to  
142 be paid in cases not covered by the schedule, either party may appeal to the  
143 Division of Workmen's Compensation for a settlement of the controversy.

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

148 d. If previous loss of function to the body, head, a member or an organ,  
149 due to any previous compensable accident or accidents, is established by com-  
150 petent evidence, and subsequently an injury arising out of and in the course  
151 of an employment occurs to that part of the body, head, member or organ,  
152 where there was a previous loss, then and in such case, the employer or his  
153 insurance carrier at the time of the subsequent injury shall not be liable  
154 for any loss for which compensation has previously been paid or awarded.  
155 In either event, credit shall be given the employer or his insurance carrier  
156 to the extent of the previous loss for which compensation has been paid.

157 e. In case of the death of the person from any cause other than the acci-  
158 dent or occupational disease, during the period of payments for permanent  
159 injury, the remaining payments shall be paid to such of his or her dependents  
160 as are included in the provisions of said section 34:15-13 or, if no dependents,  
161 the remaining amount due, but not exceeding ~~[\$400.00,]~~ \$750.00, shall be paid  
162 in a lump sum to the proper person for funeral expenses; but no compensa-  
163 tion shall be due any other person than the injured employee on account of

164 compensation being paid in excess of 450 weeks on account of disability total  
 165 in character and permanent in quality as provided by paragraph "b" of this  
 166 section.

1        2. Section 34:15-13 of the Revised Statutes is amended to read as fol-  
 2 lows:

3        34:15-13. Except as hereinafter provided, in case of death, compensation  
 4 shall be computed, but not distributed, on the following basis:

5        a. For one dependent, **[35%]** 50% of wages.

6        b. For 2 dependents, **[40%]** 55% of wages.

7        c. For 3 dependents, **[45%]** 60% of wages.

8        d. For 4 dependents, **[50%]** 65% of wages.

9        e. For 5 or more dependents, **[55%]** 70% of wages.

10       **[f. For 6 or more dependents, 60% of wages.]**

11       **[g.] f.** The term "dependents" shall apply to and include any or all of  
 12 the following who are dependent upon the deceased at the time of accident or  
 13 the occurrence of occupational disease, or at the time of death, namely:  
 14 Husband, wife, parent, stepparents, grandparents, children, stepchildren,  
 15 grandchildren, child in esse, posthumous child, illegitimate children, brothers,  
 16 sisters, half brothers, half sisters, niece, nephew. Legally adopted children  
 17 shall, in every particular, be considered as natural children. Dependency  
 18 shall be conclusively presumed as to the decedent's widow and to the natural  
 19 children under 18 years of age of a male or female decedent who were ac-  
 20 tually a part of the decedent's household at the time of his death. Every  
 21 provision of this article applying to one class shall be equally applicable to  
 22 the other. Should any dependent of a deceased employee die during the  
 23 period covered by such weekly payments the right of such dependent to  
 24 compensation under this section shall cease but should the widow of a de-  
 25 ceased employee remarry during such period and before the total compen-  
 26 sation is paid, she shall be entitled to receive the remainder of the compen-  
 27 sation which would have been due her had she not remarried, or \$1,000.00  
 28 whichever is the lesser. The foregoing schedule applies only to persons

29 wholly dependent, and in the case of persons only partially dependent, ex-  
30 cept in the case of the widow and children who were actually a part of the  
31 decedent's household at the time of his death, the compensation shall be  
32 such proportion of the scheduled percentage as the amounts actually con-  
33 tributed to them by the deceased for their support constituted of his total  
34 wages and the provision as to a **[\$10.00]** \$15.00 minimum shall not apply  
35 to such compensation. In determining the number of dependents, where  
36 the deceased employee was a minor, the number of persons dependent  
37 upon the deceased employee shall be determined in the same way as if the  
38 deceased employee were an adult, notwithstanding any rule of law as to the  
39 person entitled to a minor's wages.

40 **[h.] g.** Compensation shall be computed upon the foregoing basis. Dis-  
41 tribution shall be made among dependents, if more than one, according to  
42 the order of the Division of Workmen's Compensation, which shall, when  
43 applied to for that purpose determine, upon the facts being presented to  
44 it, the proportion to be paid to or on behalf of each dependent according to  
45 the relative dependency. Payment on behalf of infants shall be made to the  
46 surviving parent, if any, or to the statutory or testamentary guardian.

47 **[i.] h.** If death results from the accident or occupational disease,  
48 whether there be dependents or not, expenses of the last sickness of the  
49 deceased employee shall be paid in accordance with the provisions for medi-  
50 cal and hospital service as set forth in section 34:15-15 of this Title. Also  
51 the cost of burial, not to exceed **[\$400.00]** \$750.00, shall be paid to the de-  
52 pendent or other person having paid said costs of burial. In the event that  
53 the said dependent or other person has paid less than **[\$400.00]** \$750.00 the  
54 said dependent or other person shall be reimbursed in the amount paid and,  
55 if the costs of burial exceed the amount so paid, the difference between the  
56 said amount and **[\$400.00]** \$750.00 or so much thereof as may be necessary to  
57 pay the cost of burial, shall be paid to the undertaker or embalmer. In the  
58 event that no part of the costs of burial has been paid, the amount of such  
59 cost of burial, not to exceed **[\$400.00,]** \$750.00, shall be paid to the under-  
60 taker or embalmer.

61 [j.] i. In computing compensation to those named in this section, except  
 62 husband, wife, parents and stepparents, only those under 18 or over 40 years of  
 63 age shall be included and then only for that period in which they are under 18  
 64 or over 40; provided, however, that payments to such physically or mentally  
 65 deficient persons as are for such reason dependent shall be made during the  
 66 full compensation period of [350] 450 weeks.

67 [k.] j. The maximum compensation in case of death shall be [\$40.00 per  
 68 week and the minimum \$10.00] *subject to the maximum compensation as stated*  
 69 *in paragraph "a" of section 34:15-12 of this Title and a minimum of \$15.00*  
 70 *per week, except in the case of partial dependency as provided in this section.*  
 71 *This compensation shall be paid, in the case of a widow, during the entire*  
 72 *period of widowhood except that any earnings from employment by the*  
 73 *widow after 450 weeks of compensation have been paid shall be deducted from*  
 74 *the compensation thereafter payable to the widow and, in the case of other*  
 75 *dependents, during [350] 450 weeks and if at the expiration of [350] 450 weeks*  
 76 *there shall be one or more dependents under 18 years of age compensation*  
 77 *shall be continued for such dependents until they reach 18 years of age at*  
 78 *the schedule provided under paragraphs "a" to ["f"] "e" of this section.*

1 3. Section 34:15-14 of the Revised Statutes is amended to read as follows:

2 34:15-14. No compensation other than medical aid shall accrue and be  
 3 payable until the employee has been disabled 7 days, whether the days of  
 4 disability immediately follow the accident, or whether they be consecutive  
 5 or not. These days shall be termed the waiting period. The day that the  
 6 employee is unable to continue at work by reason of his accident, whether  
 7 it be the day of the accident or later, shall count as one whole day of the  
 8 waiting period. Should the total period of disability extend beyond [4  
 9 weeks] 7 days, additional compensation shall at once become payable cover-  
 10 ing the above prescribed waiting period.

1 4. Section 34:15-16 of the Revised Statutes is amended to read as follows:

2 34:15-16. Compensation for all classes of injuries shall run consecu-  
 3 tively, and not concurrently, except as provided in this section and in section

4 34:15-15 of this Title, as follows: First, medical and hospital services and  
5 medicines as provided in said section 34:15-15. After the waiting period,  
6 compensation during temporary disability. If total period of disability ex-  
7 tends beyond [4 weeks,] 7 days, compensation to cover waiting period. Fol-  
8 lowing both, either or none of the above, compensation consecutively for  
9 each permanent injury, except that permanent disability, total or partial,  
10 shall not be determined or awarded until after 26 weeks from the date of  
11 the employee's final active medical treatment, or until after 26 weeks from  
12 the date of the employee's return to work, whichever is earlier, or, if no  
13 time is lost or no treatment is rendered, then permanent disability, total or  
14 partial, shall not be determined or awarded until after 26 weeks from the  
15 date of the accident, except in cases of amputation or enucleation or death  
16 from other cause within that time and except when earlier determination of  
17 permanent disability is waived by the employer or his insurance carrier.  
18 Nothing herein contained shall prevent an employer or his insurance carrier  
19 from paying permanent disability compensation voluntarily prior to the ex-  
20 piration of the 26-week period. Following any or all or none of the above,  
21 if death results from the accident, expenses of last sickness and burial. Fol-  
22 lowing which compensation to dependents, if any.

23 Where an employer or his insurance carrier desires to pay for or fur-  
24 nish compensation, medical, surgical, or hospital treatment, drugs, ortho-  
25 pedic or prosthetic appliances, after the date when payments under sections  
26 34:15-12 and 34:15-13 of this Title have terminated, the employer or his in-  
27 surance carrier may, in writing, reserve the defense of the jurisdictional  
28 limitations provided by sections 34:15-27, 34:15-34, 34:15-41 and 34:15-51  
29 of this Title; provided, that the reservation is approved by a deputy direc-  
30 tor after advising the petitioner personally of his rights and of the effect  
31 of such reservation.

1 5. Section 34:15-34 of the Revised Statutes is amended to read as follows:

2 34:15-34. All claims for compensation for compensable occupational dis-  
3 ease shall be barred unless a petition is filed in duplicate with the secretary  
4 of the [workmen's compensation bureau, at the State House] division in

5 Trenton, within 2 years after the date on which the employee ceased to be  
6 exposed in the course of employment with the employer to such occupa-  
7 tional disease as hereinabove defined, or within 1 year after the employee  
8 knew or ought to have known the nature of his disability and its relation  
9 to his employment, whichever period is later in duration. In case an agree-  
10 ment of compensation for compensable occupational disease has been made  
11 between such employer and such claimant, then an employee's claim for  
12 compensation shall be barred unless a petition for compensation is duly  
13 filed with such secretary within 2 years after the failure of the employer  
14 to make payment pursuant to the terms of such agreement; or in case a  
15 part of the compensation has been paid by such employer, then within 2 years  
16 after the last payment of compensation.

17 Notwithstanding any provision of this section hereinabove set forth, all  
18 claims for compensation for compensable occupational disease hereunder  
19 shall be forever barred unless a petition is filed in duplicate with the sec-  
20 retary of [the workmen's compensation bureau] *the Division of Workmen's*  
21 *Compensation*, in Trenton, within 5 years after the date on which the em-  
22 ployee ceased to be exposed in the course of employment with the employer  
23 to such occupational disease; provided, however, that in the event of death  
24 of an employee who has been paid compensation on account of a compensable  
25 occupational disease, a petition on behalf of dependents, as defined in section  
26 34:15-13[g] \***[B]**\* \*f\* of the Revised Statutes, shall be timely if filed within  
27 2 years after the date of last payment to the employee notwithstanding such  
28 period of 2 years or any part thereof extends beyond the 5-year period  
29 hereinabove set forth.

30 A payment or agreement to pay by the insurance carrier shall, for the  
31 purpose of this section, be deemed a payment or agreement by the employer.

32 *In any case wherein claim is made for radiation poisoning as an occu-*  
33 *pational disease more than 2 years after the date upon which the employee*  
34 *ceased to be exposed in the course of employment with exposure to such*  
35 *occupational disease, the aforesaid 5-year limitation shall not apply, except-*  
36 *ing, however, that the claim petition must be filed in duplicate with the*

37 *Secretary of the Division of Workmen's Compensation within 1 year after*  
38 *the employee knew or ought to have known the nature of the claimed dis-*  
39 *ability and its relation to his employment.*

1     6. Section 34:15-37 of the Revised Statutes is amended to read as fol-  
2 lows:

3     34:15-37. "Wages," when used in this chapter, shall be construed to  
4 mean the money rate at which the service rendered is recompensed under  
5 the contract of hiring in force at the time of the accident. Board and lodg-  
6 ing when furnished by the employer as part of the wages shall be included  
7 and valued at ~~[\$8.00]~~ \$25.00 per week, unless the money value of such ad-  
8 vantages shall have been otherwise fixed by the parties at the time of hiring.  
9 Where prior to the accident, the rate of wages is fixed by the output of the  
10 employee, the daily wages shall be calculated by dividing the number of days  
11 the workman was actually employed into the total amount the employee  
12 earned during the preceding 6 months, or so much thereof as shall refer to  
13 employment by the same employer. When the rate of wages is fixed by the  
14 hour, the daily wage shall be found by multiplying the hourly rate by the cus-  
15 tomary number of working hours constituting an ordinary day in the  
16 character of the work involved. In any case the weekly wage shall be  
17 found by multiplying the daily wage by 5, or if the employee worked a  
18 greater proportion of the week regularly, then by 5½, 6, 6½ or 7, according  
19 to the customary number of working days constituting an ordinary week in  
20 the character of the work involved. Five days shall constitute a minimum  
21 week. Gratuities, received regularly in the course of employment from other  
22 than the employer, shall be included in determining the weekly wage only in  
23 those cases where the employer or employee has kept a regular daily or  
24 weekly record of the amount of gratuities so received. In such cases the  
25 average weekly amount of gratuities over a period of 6 months, or for the  
26 entire time of employment, whichever period is less, shall be added to the  
27 fixed weekly wage to determine the employee's total weekly wage. If no such  
28 record has been kept, then the average amount of the weekly gratuities shall

29 be fixed [as \$10.00 per week,] by the judge of compensation or the referee  
30 hearing the matter.

1 7. Section 34:15-38 of the Revised Statutes is amended to read as fol-  
2 lows:

3 34:15-38. To calculate the number of weeks and fraction thereof that  
4 compensation is payable for temporary disability, determine the number of  
5 calendar days of disability from and including as a full day the day that the  
6 employee is first unable to continue at work by reason of the accident, in-  
7 cluding also Saturdays, Sundays and holidays, up to the first working day  
8 that the employee is able to resume work and continue permanently thereat;  
9 subtract from this number the waiting period and any days and fraction  
10 thereof the employee was able to work during this time, and divide the re-  
11 mainder by 7. If, however, the total period of disability extends beyond  
12 [4 weeks] 7 days, the waiting period shall not be subtracted from the  
13 number indicated above. The resulting whole number and sevenths will be  
14 the required period for which compensation is payable on account of tempo-  
15 rary disability.

1 8. Section 34:15-79 of the Revised Statutes is amended to read as fol-  
2 lows:

3 34:15-79. An employer who shall fail to provide the protection pre-  
4 scribed in this article shall be guilty of a misdemeanor, and upon conviction  
5 thereof shall be punished by a fine of not more than \$1,000.00 or by imprison-  
6 ment for not more than 60 days or by both such fine and imprisonment, and  
7 in cases where a workmen's compensation award in the *Division of Work-*  
8 *men's Compensation* [Bureau] of New Jersey against the defendant is not  
9 paid at the time of the sentence, the court may suspend sentence upon such  
10 defendant and place him on probation for any period with an order to pay  
11 said compensation award to the claimant through the probation office of  
12 the county. Where the employer is a corporation, the president, secretary,  
13 and treasurer thereof who are actively engaged in the corporate business  
14 shall be liable for failure to secure the protection prescribed by this article.  
15 Any contractor placing work with a subcontractor shall, in the event of the

16 subcontractor's failing to carry workmen's compensation insurance as re-  
 17 quired by this article, become liable for any compensation which may be due  
 18 an employee or the dependents of a deceased employee of a subcontractor.  
 19 The contractor shall then have a right of action against the subcontractor  
 20 for reimbursement.

21 All fines collected under the terms of this clause shall be paid to the  
 22 State Treasurer and credited on the records of the State Comptroller to  
 23 the account of the Rehabilitation Commission for Physically Handicapped  
 24 Persons, to be used in carrying out the provisions of chapter 16 of this  
 25 Title 34:16-1, et seq.

26 *The director or any officer or employee of the division designated by*  
 27 *him, upon finding that an employer has failed for a period of not less than 10*  
 28 *consecutive days to make the provisions for payment of compensation re-*  
 29 *quired by sections 34:15-71 and 34:15-72 of this Title, may impose upon*  
 30 *such employer, in addition to all other penalties, fines or assessments pro-*  
 31 *vided for in chapter 15 of Title 34 or in any supplement thereto, an assess-*  
 32 *ment in the amount of \$25.00 and when such period exceeds 20 days, an addi-*  
 33 *tional assessment of \$25.00 for each period of 10 days thereafter, but no em-*  
 34 *ployer shall be assessed more than \$100.00 at any one time. \* [Such assessments*  
 35 *shall be paid into the uninsured employers fund.] \* All assessments under*  
 36 *this act shall be collectible in a court of competent jurisdiction in a summary*  
 37 *civil proceeding and shall be paid into the uninsured employers fund.\**

1 9. Section 34:15-90 of the Revised Statutes is amended to read as fol-  
 2 lows:

3 34:15-90. No mutual association or stock company shall be authorized  
 4 to write compensation or liability insurance in the State unless it is a mem-  
 5 ber of the compensation rating and inspection bureau.

6 Each member of the bureau writing such insurance shall be represented  
 7 by one representative and shall be entitled to one vote in the administration  
 8 of bureau affairs.

9 The bureau shall adopt such rules and regulations for its procedure and  
 10 provide such income as may be necessary for its maintenance and operation.

11 The Commissioner of Banking and Insurance shall appoint a special  
 12 deputy to be ex-officio chairman of the bureau. *Such deputy shall serve with*

13 *the bureau solely as a representative of the Commissioner of Banking and*  
14 *Insurance and of the Department of Banking and Insurance and shall hold*  
15 *no other office with the bureau nor shall he receive any compensation from*  
16 *the bureau.* In the absence of the chairman or his inability to serve, the  
17 Commissioner of Banking and Insurance shall designate another person to  
18 serve in his stead.

19 All officers, members of committees and employees of the bureau shall be  
20 subject to the approval and ratification of the Commissioner of Banking  
21 and Insurance.

1 10. There is hereby created a fund which shall be known as the "unin-  
2 sured employer's fund" to provide for the payment of awards against unin-  
3 sured defaulting employers in accordance with the provisions of this act.

4 For the purpose of establishing and maintaining this fund, the direc-  
5 tor, upon rendering a decision with respect to any claim for compensation  
6 under chapter 15 of Title 34 of the Revised Statutes that the employer liable  
7 therefor has failed to secure the payment of compensation with respect  
8 thereto in accordance with section 34:15-71 or section 34:15-72 of the Re-  
9 vised Statutes, shall impose an assessment in the sum of \$150.00 against  
10 the employer and direct its payment into the fund in connection with each  
11 such claim. The director shall also impose an additional assessment of 15%  
12 of the award or awards made in each such claim, such additional assessment  
13 not to exceed, however, the sum of \$1,500.00 in any one claim, and shall direct  
14 that such additional assessment also be paid into the fund.

15 If the employer shall fail to pay these assessments into the fund within  
16 10 days after date of mailing of notice thereof to him, such default shall  
17 constitute a default in payment of compensation due pursuant to the pro-  
18 visions of section 40 of this act and judgment therefor shall be entered in ac-  
19 cordance therewith, all other provisions of said section to be deemed ap-  
20 plicable with respect thereto, except to the extent that said provisions may  
21 be clearly inconsistent with the provisions of this section. All sums collected  
22 from an uninsured employer with respect to any claim for compensation  
23 referred to in this section but not payable from the fund, whether such col-

24 lection is made prior or subsequent to entry of judgment against such em-  
25 ployer, shall be deemed in payment of and applicable first in satisfaction  
26 of any compensation and benefits due from such employer with respect to  
27 such claim and security demand, if any, in connection therewith and only  
28 when such obligations are satisfied in full shall the balance of said sums  
29 collected, if any, be deemed payment in satisfaction of and applicable to the  
30 assessments above prescribed in this section.

31 All sums recovered from uninsured employers on judgments entered  
32 for failure to pay assessments as hereinafter provided and for failure to  
33 pay compensation and benefits which were paid from the fund herein created,  
34 shall upon such recovery be paid into said fund.

1 11. In any case in which a claim for compensation is filed pursuant to  
2 the provisions of chapter 15 of Title 34 of the Revised Statutes and the em-  
3 ployer has failed to secure the payment of compensation as required by  
4 section 34:15-71 or section 34:15-72 of the Revised Statutes and to make  
5 payment of compensation according to the terms of any award within 45  
6 days thereafter and fails or refuses to deposit with the director within 10  
7 days after demand the commuted or estimated value of the compensation  
8 payable under the award as security for prompt and convenient payment of  
9 such compensation periodically as it accrues, then and in such event, unless  
10 a notice of appeal has been timely filed, the award shall be payable out of  
11 the "uninsured employers' fund," but no extra compensation or death bene-  
12 fit pursuant to section 34:15-10 shall be payable from the fund.

1 12. In case of default by an uninsured employer in the payment of any  
2 compensation due under an award for a period of 45 days after payment is  
3 due and payable and the uninsured employer fails or refuses to deposit with  
4 the director within 10 days after demand the commuted or estimated value  
5 of the compensation payable under the award as security for prompt and  
6 convenient payment of such compensation periodically as it accrues, or in  
7 case of failure by an employer, within 20 days after it is due to pay any  
8 assessment imposed by the director pursuant to section 34:15-79 of the

9 Revised Statutes or section 38 of this act, the director in any such case may  
10 file with the Clerk of the Superior Court, (1) a statement containing the find-  
11 ings of fact, conclusions of law, award and judgment of the officer making the  
12 award which is in default together with a certified copy of the demand for  
13 deposit of security, or (2) a certified copy of the director's order imposing,  
14 and the demand for payment of, such assessment, and, thereupon, shall have  
15 the same effect and may be collected and docketed in the same manner as  
16 judgments rendered in causes tried in the Superior Court. The court shall  
17 vacate or modify such judgment to conform to any later award or decision  
18 by any authorized officer of the division \***[or by the Board of Workmen's Com-  
19 pensation Appeals]**\* upon presentation of a statement thereof as provided for  
20 above. The award may be compromised by the Commissioner of Labor and  
21 Industry as in his discretion may best serve the interest of the persons  
22 entitled to receive the compensation or benefits.

1 13. Notwithstanding the provisions of any other section of this act, no  
2 payments shall be made from the uninsured employers' fund except upon  
3 application to and approval by the Commissioner of Labor and Industry.  
4 Review of any decision by the commissioner shall be in accordance with sec-  
5 tion 34:15-66 of the Revised Statutes. In no event, however, shall any pay-  
6 ments be made from the fund until the total amount therein exceeds  
7 \$100,000.00, and thereafter only to the extent of the amount in the fund  
8 exceeding \$100,000.00, and, in any case, only for injuries and deaths resulting  
9 therefrom occurring after the fund reaches \$100,000.00.

1 14. To the extent of the compensation and benefits paid or payable to an  
2 employee or his dependents from the uninsured employers' fund, the fund,  
3 by subrogation, shall be entitled to all the rights, powers and benefits of the  
4 employee or his dependents against the employer arising under the provi-  
5 sions of chapter 15 of Title 34 of the Revised Statutes; and in any case or  
6 situation contemplated by section 34:15-40 of the Revised Statutes, the fund,  
7 shall have the same rights as the employer.

1 15. The commissioner shall annually submit an accounting of the fund to  
2 the State Treasurer. Payments to applicants from said fund shall be made  
3 by the State Treasurer upon warrants of the Commissioner of Labor and  
4 Industry.

1 16. The commissioner may make all necessary rules and regulations  
2 necessary for the processing and payment of compensation out of the unin-  
3 sured employers' fund.

1 17. The liability of the uninsured employers' fund and the State with  
2 respect to payment of any compensation, benefits, expenses, fees for disburse-  
3 ments properly chargeable against the fund shall be limited to the assets in  
4 the fund as exceed \$100,000.00 and the fund and the State shall not otherwise  
5 in any way or manner be liable for the making of any such payment.

1 18. There is hereby created a commission to study the workmen's com-  
2 pensation law.

3 a. Said commission shall consist of 15 members, 2 to be appointed from  
4 the membership of the Senate by the President thereof, no more than one  
5 of whom shall be of the same political party and 2 to be appointed from the  
6 membership of the General Assembly by the Speaker thereof, no more than  
7 one of whom shall be of the same political party, and 11 to be appointed by  
8 the Governor. Vacancies in the membership of the commission shall be filed  
9 in the same manner as the original appointments were made.

10 b. The commission shall organize as soon as may be after the appoint-  
11 ment of its members and shall select a chairman from among its members  
12 and a secretary who need not be a member of the commission.

13 c. It shall be the duty of said commission to study the areas of perma-  
14 nent partial disability benefits, the second injury fund, administrative proce-  
15 dures and judicial review and such other aspects of the workmen's compen-  
16 sation law as it deems advisable, and to make recommendations to the end  
17 that employees be justly compensated for all injuries covered by the law, that  
18 the highest possible rate of employment of the handicapped be encouraged and  
19 that a speedy and efficient procedure for the disposition of claims be provided.

20 d. The commission shall be entitled to call to its assistance and avail itself  
21 of the services of such employees of any State, county or municipal depart-  
22 ment, board, bureau, commission or agency as it may require and as may be  
23 available to it for said purpose, and to employ such legal, technical, steno-  
24 graphic and clerical assistants and incur such traveling and other miscellan-  
25 eous expenses as it may deem necessary, in order to perform its duties, and  
26 as may be within the limits of funds appropriated or otherwise made avail-  
27 able to it for said purposes.

28 e. The commission may meet and hold hearings at such place or places as  
29 it shall designate and shall report its findings and recommendations to the  
30 Governor and the Legislature on or before the second Tuesday in January,  
31 1967.

32 f. There is hereby appropriated to the commission the sum of \$25,000.00  
33 to carry out the purposes of this act.

1 19. This act shall take effect **\*\*[January]\*\*** **\*\*March\*\*** 1, 1967, **\*[except**  
2 that section 18 shall take effect immediately]\* *\*provided, however, that such*  
3 *administrative action as is necessary to implement this act on* **\*\*[January]\*\***  
4 **\*\*March\*\*** 1, 1967 may be taken prior thereto and provided further that sec-  
5 tion 18 of this act shall take effect immediately.\*