

LEGISLATIVE HISTORY CHECKLIST

34:15-7

NJSA: 34:15-7 et al. (Workers' Compensation Law--various amendments)

Laws OF 1979 CHAPTER 283

Bill No. S802

Sponsor(s) Bedell

Date Introduced Feb. 9, 1978

Committee: Assembly -----  
Senate Labor, Industry and Professions

Amended during passage Yes  Amendments during passage denoted by asterisks.  
Date of Passage: Assembly Dec. 6, 1979 Substituted for A840 (not attached since identical to S802)  
Senate Dec. 6, 1979  
Date of approval Jan. 10, 1980

Following statements are attached if available:

Sponsor statement	Yes	<input checked="" type="checkbox"/>	Senate amendments to SCS, adopted 12-3-79 (with statement)--attached
Committee Statement: Assembly	Yes	<input type="checkbox"/>	
Senate	Yes	<input checked="" type="checkbox"/>	
Fiscal Note	Yes	<input type="checkbox"/>	
Veto message	Yes	<input type="checkbox"/>	
Message on signing	Yes	<input checked="" type="checkbox"/>	

Following were printed:

Reports	Yes	No
Hearings	Yes	<input checked="" type="checkbox"/>

Public hearing on S802, held 1-24-79 was not transcribed.

974.90 N.J. Legislature. Senate. Labor, Industry and Professions Committee  
E55 and the Assembly Labor Committee.  
1979c Public hearing on workers' compensation--administrative aspects,  
held 4-19-79. Trenton, 1979.

(over)

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cited in Senate Committee statement:

974.90 N.J. Commission on Sex Discrimination in the Statutes.  
W872 Sex discrimination in the employment statutes.  
1979d Trenton, 1979.

Background:

- 974.90 N.J. Workmen's Compensation Study Commission  
E55 Report. Newark, 1973.  
1973a
- 974.90 N.J. Workmen's Compensation Study Commission.  
E55 Report. Newark, 1973.  
1973
- 974.90 N.J. Legislative. Senate. Committee on Labor Relations.  
E55 Public hearing on pending workmen's compensation  
1970 bills, held 4-22-70. Trenton, 1970.
- 974.90 N.J. Legislature. Senate. Labor Relations Committee.  
E55 Public hearing on Senate Bills Nos. 57 and 63 and  
1969 Assembly Bills Nos. 360 to 365 and 464 and 465; held  
2-24-69. Trenton, 1969.
- 974.90 N.J. Workmen's Compensation Law Study Commission.  
E55 Recommendations of Commissioner Albert K. Plone. 1968.  
1968b
- 974.90 N.J. Workmen's Compensation Law Study Commission.  
E55 Transcript of meetings, held 3-31-67 - 6-12-68.  
1968a Trenton, 1968.
- 974.90 N.J. Workmen's Compensation Law Study Commission.  
E55 Report...July, 1968. Trenton, 1968.  
1968
- 974.90 A report on the worker's compensation amendments of  
E55 1979 (chapters 283 and 285...) Office of Income Security,  
1981a Division of Workers Compensation, July, 1981. Trenton, 1981.

5802 (1978)

5712

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*SPONSOR'S STATEMENT*

This bill is a revision of New Jersey's Worker Compensation Law. The purpose of this bill is to make available additional dollars for benefits to seriously disabled workers while clarifying and tightening awards of compensation benefits based upon insignificant permanent partial disabilities.

The bill would put more money into the hands of the more seriously injured worker while providing some relief to New Jersey employers from worker's compensation costs that are presently among the highest in the nation.

SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

JOINT STATEMENT TO  
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE, No. 802**

and

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 840**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 13, 1979

This bill is a revision of New Jersey's Workers' Compensation Law and would make available additional dollars for benefits to seriously disabled workers while eliminating, clarifying or tightening awards of compensation based upon minor permanent partial disabilities not related to the employment.

The bill would put significantly more money into the hands of the more seriously injured workers while providing genuine reform and meaningful cost containment for New Jersey employers from unjustified workers' compensation costs that are presently among the highest in the nation.

This legislation will increase the current maximum \$40.00 per week permanent partial disability rate to maximum weekly rates ranging up to 75% of the statewide average weekly wage based upon the degree of disability awarded. It would also increase the current maximum rate established for temporary disability, permanent total disability and dependency claims from 66 $\frac{2}{3}$ % of the statewide average weekly wage to 75% of the statewide average weekly wage. Calculated on the basis of the statewide average weekly wage used to determine 1979 awards, maximum awards to workers for work-related amputations would increase by approximately these amounts: arm—\$12,000.00 to \$55,340.00; leg—\$11,000.00 to \$52,825.00; hand—\$9,200.00 to \$33,440.00; and foot—\$8,000.00 to \$28,100.00. Since these awards are based on a percentage of the statewide average weekly wage, they will increase as the average wage increases. New Jersey's rank among the 48 contiguous states for these maximum amputation awards would improve as follows: arm, 47th to 6th; leg, 47th to 5th; hand, 47th to 13th; and foot, 46th to 13th. The maximum duration and benefit amounts for work-connected perma-

nent partial disability would increase from the current 550 weeks at \$40.00 per week (\$22,000.00) to a new maximum of 600 weeks at 75% of the statewide average weekly wage or \$176.00 per week in 1979 (about \$105,000.00). Burial benefits for work-related deaths would increase from \$750.00 to \$2,000.00.

This legislation would benefit employers by: (1) allowing credits for pre-existing disabilities to employers in the determination of awards for permanent partial and permanent total disability claims; (2) countering the far-reaching effects of *Dwyer v. Ford* in cardiac claims by requiring that a petitioner prove that the injury or death involved substantial effort or strain which was in excess of the rigors of the claimant's daily living and that the cause of the injury or death was job-related in a material degree; (3) defining permanent partial disability as a work-related injury or disease, demonstrated by objective medical evidence and diminution of the claimant's work ability; objective medical evidence is understood to mean evidence exceeding the subjective statement of the petitioner; (4) restricting the "odd lot" doctrine by a redefinition of permanent total disability; (5) clarifying the effect of the decision in *Brown v. General Aniline* by permitting compensation judges to enter an award approving settlement in matters where causal relationship, jurisdiction, dependency or liability are in issue, resulting in the payment of a lump sum having the effect of a dismissal of the petition and a complete surrender of any future right to compensation or other benefits arising out of that claim; (6) declaring injuries sustained during recreational or social activities sponsored by the employer to be noncompensable unless such activities are a regular part of the employment; (7) excluding from compensability degenerative changes due to the natural aging process and limiting compensation for occupational diseases to those which are characteristic of and peculiar to a particular employment; (8) establishing relief from the far-reaching effect of the "Going and Coming Rule" decisions by defining and limiting the scope of employment; and (9) precluding retroactive application of the Statute of Limitations to occupational disease claims except in specific enumerated cases involving latent manifestation.

The bill would limit the base upon which to determine attorney fees, to be paid by the worker or his dependents and by the employer, to the amount awarded beyond an employer's offer, providing that offer is made within designated time frames.

Although this bill would be effective immediately, the provisions of the bill will apply only to accidents and occupational disease exposures which occur on or after January 1, 1980, and would not be applied retroactively to accidents or occupational diseases occurring prior to

January 1, 1980, except in cases where claim is made for an occupational disease characterized by latent manifestation as set forth in R. S. 34:15-34.

This legislation also requires additional reporting by the Commissioner of Labor and Industry, including a detailed analysis to the responsible legislative committees on the effect of these changes after 18 months of experience. The commissioner would also prepare and make available to interested parties a monthly analysis of all claims filed and settled in the State.

On the recommendation of the Commission on Sex Discrimination in the Statutes, and based on the New Jersey Supreme Court's decision in *Tamarchio v. Township of Greenwich*, 75 N. J. 62 (1977), the bill would require that widowers, like widows, receive an automatic presumption of dependency. Administratively, the Division of Workers' Compensation is already conforming to the court's decision.

The Senate Labor, Industry and Professions Committee and the Assembly Labor Committee expressed their feeling that rehabilitation is a priority issue which must be addressed within the next 2 years. The statistics gathered by the Department of Labor and Industry in the first 18 months of experience with this bill will hopefully provide the basis for an extensive review of rehabilitation for disabled workers in New Jersey.

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SENATE AMENDMENTS TO  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 802**

**STATE OF NEW JERSEY**

ADOPTED DECEMBER 3, 1979

Amend page 1, section 1, line 16, after "enforced", insert "and which an employer can properly document that despite repeated warnings, the employee has willfully failed to properly and effectively utilize".

Amend page 1, section 1, line 17, after "death," insert "provided, however, this latter provision shall not apply where there is such imminent danger or need for immediate action which does not allow for appropriate use of personal protective device or devices".

Amend page 2, section 3, line 5, after "substantial", insert "condition,".

Amend page 16, section 9, line 15, after "employer", insert "and which an employer can properly document that despite repeated warnings, the employee has willfully failed to properly and effectively utilize, provided, however, this latter provision shall not apply where there is such imminent danger or need for immediate action which does not allow for appropriate use of personal protective device or devices.".

Amend page 16, section 10, line 6, after second "or", insert "place of".

Amend page 17, section 12, line 8, after "c.", omit "266", insert "226".

Amend page 18, section 12, line 34, after ".", insert "Travel by a policeman or fireman in responding to an emergency shall be deemed to be in the course of employment.".

Amend page 18, section 12, lines 39-45, after "organs", delete in its entirety and insert "; included in the criteria which shall be considered shall be whether there has been a lessening to a material degree of an employee's working ability. Subject to the above provisions nothing in this definition shall be construed to preclude benefits to a worker who returns to work following a compensable accident even if there be no reduction in earnings. Injuries such as minor lacerations, minor contusions, minor sprains, and scars which do not constitute significant permanent disfigurement, and occupational disease of a minor nature such as mild dermatitis and mild bronchitis shall not constitute permanent disability within the meaning of this definition.".

Amend page 19, section 13, line 21, after "involved", omit ".".

Amend page 19, section 13, line 22, omit "If" and insert "; provided, however, if".

Amend page 19, section 13, line 24, after "wage", insert "for the purposes of compensation under provisions of R. S. 34:15-12a only".

Amend page 21, section 16, line 20, after "death", omit remainder of line.

Amend page 21, section 16, line 21, omit "26 weeks prior to final hearing".

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STATEMENT

These amendments:

1. Limit non-compensable injuries due to an employee's failure to wear protective devices to those cases where the employer can show that the employee received repeated warnings to utilize such devices.
  2. Expand the definition of "compensable occupational disease" to include diseases due in a material degree to conditions characteristic of the place of employment.
  3. Expand the definition of "disability permanent in quality and partial in character" by limiting the requirement that the employee's working ability be lessened to those impairments which are related to the nature of the employment.
  4. Clarify the right of an employee who returns to work at full salary to receive benefits under this act.
  5. Clarify that the determination of weekly wage as set forth in section 13 applies to schedule of compensation set forth in section 12.
  6. Limit the period in which attorney's fees are not allowed.
  7. Heart injuries due to a substantial work-related "condition" in excess of normal wear-and-tear, in addition to "event or happening," would be compensable.
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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 10, 1980

PAT SWEENEY

Governor Brendan Byrne today signed S-802 and S-3362, both sponsored by Senator Eugene J. Bedell (D-Monmouth), in a public ceremony in his office.

S-802 amends and supplements various sections of the Workers Compensation Law. Signing the bill, the Governor said, "This legislation represents the cooperative efforts of business executives, labor leaders and government representatives. This bill will bring more money to those who are seriously injured, making the workers compensation system more equitable."

"In addition," Byrne said, "this bill removes many of the so-called 'nuisance' claims."

The Governor added, "By providing the first increases in payments for injured workers since enactment of the 1966 amendments, this legislation will have the effect of moving New Jersey from the bottom to among the top 15 states in the nation in payments for major amputations."

The bill also extends to 600 the maximum number of weeks of benefits for permanent partial disability, and raises the maximum compensation rate to 75 percent of the statewide average weekly wage as covered by the Unemployment Compensation Law.

Significant amendments include:

-- The definition of permanent disability has been altered to provide that workers who return to work following a compensable accident will not be precluded from continuing to receive benefits.

-- The assumption of the risk provisions have been amended to provide that employees who fail to wear protective devices will not be denied benefits unless the employer can properly document the willful failure.

-- The section which limits occupational diseases has been broadened.

-- A slightly less strict definition of compensable heart injuries has been adopted.

-- Travel by a policeman or fireman in responding to an emergency has been included as being in the course of employment, and thus compensable.

-- The period in which an employer may offer a settlement has been limited to six months after notification, final medical treatment or return to work (whichever is later), rather than up to the final hearing date.

The bill takes effect immediately.

S-3362 provides for a uniform evaluation of occupational hearing loss and for a uniform schedule of compensation payments for such loss.

Signing the bill, the Governor said, "This legislation has been the purpose of encouraging the prevention of occupational hearing impairment insofar as possible and to provide proper compensation when it does occur."

Governor Byrne conditionally vetoed the bill on January 7, recommending several changes to better define hearing loss.

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[OFFICIAL COPY REPRINT]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 802**

**STATE OF NEW JERSEY**

ADOPTED NOVEMBER 13, 1979

AN ACT concerning workers' compensation, and revising parts of  
the statutory law pertaining thereto.

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

1 1. R. S. 34:15-7 is amended to read as follows:

2 34:15-7. When employer and employee shall by agreement,  
3 either express or implied, as hereinafter provided, accept the pro-  
4 visions of this article compensation for personal injuries to, or for  
5 the death of, such employee by accident arising out of and in the  
6 course of **[his]** employment shall be made by the employer without  
7 regard to the negligence of the employer, according to the schedule  
8 contained in sections 34:15-12 and 34:15-13 of this Title in all  
9 cases except when the injury or death is intentionally self-inflicted,  
10 or when intoxication *or the unlawful use of controlled dangerous*  
11 *substances as defined in the "New Jersey Controlled Dangerous*  
12 *Substances Act," P. L. 1970, c. 266 (C. 24:21-1 et seq.), or willful*  
13 *failure to make use of a reasonable and proper personal protective*  
14 *device or devices furnished by the employer, which has or have*  
15 *been clearly made a requirement of the employee's employment by*  
16 *the employer and uniformly enforced \*and which an employer can*  
17 *properly document that despite repeated warnings, the employee*  
18 *has willfully failed to properly and effectively utilize\*, is the*  
19 *natural and proximate cause of injury or death \*provided, however,*  
20 *this latter provision shall not apply where there is such imminent*  
21 *danger or need for immediate action which does not allow for*  
22 *appropriate use of personal protective device or devices\*, and the*  
23 *burden of the proof of such fact shall be upon the employer or when*  
24 *recreational or social activities, unless such recreational or social*  
25 *activities are a regular incident of employment and produce a*  
26 *benefit to the employer beyond improvement in employee health*  
27 *and morale, are the natural and proximate cause of the injury or*  
28 *death.*

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

2 34:15-8. Such agreement shall be a surrender by the parties  
3 thereto of their rights to any other method, form or amount of

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

4 compensation or determination thereof than as provided in this  
5 article and an acceptance of all the provisions of this article, and  
6 shall bind the employee [himself] and for compensation for  
7 [his] *the employee's* death shall bind [his] *the employee's* per-  
8 sonal representatives, [his widow] *surviving spouse* and next of  
9 kin, as well as the employer, and those conducting [his] *the em-*  
10 *ployer's* business during bankruptcy or insolvency.

11 If an injury or death is compensable under this article, a person  
12 shall not be liable to anyone at common law or otherwise on account  
13 of such injury or death for any act or omission occurring while such  
14 person was in the same employ as the person injured or killed,  
15 except for intentional wrong.

1 3. (New section) In any claim for compensation for injury or  
2 death from cardiovascular or cerebral vascular causes, the claimant  
3 shall prove by a preponderance of the credible evidence that the  
4 injury or death was produced by the work effort or strain involving  
5 a substantial *\*condition,\** event or happening in excess of the wear  
6 and tear of the claimant's daily living and in reasonable medical  
7 probability caused in a material degree the cardiovascular or  
8 cerebral vascular injury or death resulting therefrom.

9 Material degree means an appreciable degree or a degree sub-  
10 stantially greater than *de minimis*.

1 4. R. S. 34:15-10 is amended to read as follows:

2 34:15-10. In the employment of minors, this article shall be pre-  
3 sumed to apply unless the notice be given by or to the parent or  
4 guardian of the minor. If the injured employee at the time of the  
5 accident or compensable occupational disease is a minor under 14  
6 years of age employed in violation of the labor law or a minor  
7 between 14 and 18 years of age employed, permitted or suffered to  
8 work without an employment certificate or special permit if re-  
9 quired by law or at an occupation prohibited at the minor's age by  
10 law, a compensation or death benefit shall be payable to the em-  
11 ployee or his dependents which shall be double the amount payable  
12 under the schedules provided in sections 34:15-12 and 34:15-13 of  
13 this Title.

14 The possession of such duly issued employment certificates shall  
15 be conclusive evidence for an employer that the minor has reached  
16 the age certified to therein and no extra compensation shall be  
17 payable to any minor engaged in an employment allowed by the law  
18 for the age and sex certified to in such certificate. If the certificate  
19 presented by the employee as one issued to [him] *that person* shall  
20 have been really issued to another child and the real age of the  
21 employee shall be such that [his] employment in any capacity or

22 in the particular capacity [he] *the employee* was employed by the  
 23 employer was prohibited and if the employer shall show to the  
 24 satisfaction of the Division of [Workmen's] *Workers'* Compensa-  
 25 tion that [he] *the employer* accepted the certificate in good faith  
 26 as having been issued to the employee and could not have, despite  
 27 reasonable diligence, discovered the fraud, in such event no extra  
 28 compensation shall be paid to the employee illegally employed.

29 The employer alone and not the insurance carrier shall be liable  
 30 for the extra compensation or death benefit which is over and above  
 31 the amount of the compensation or death benefit provided under  
 32 said sections 34:15-12 or 34:15-13. Any provision in an insurance  
 33 policy undertaking to relieve an employer from the liability for the  
 34 extra compensation or extra death benefit shall be void.

35 Nothing in this chapter contained shall deprive an infant under  
 36 the age of 18 years of the right or rights now existing to recover  
 37 damages in a common law or other appropriate action or proceed-  
 38 ing for injuries received by reason of the negligence of his or her  
 39 master.

40 Nothing in this section regarding the payment of a compensa-  
 41 tion or death benefit in double the amount payable under the sched-  
 42 ules provided in sections 34:15-12 and 34:15-13 of this Title shall  
 43 apply to members of a junior firemen's auxiliary established pur-  
 44 suant to chapter 309 of the laws of 1958 (C. 40:47-30.6 et seq.) or  
 45 to employees, of the age of 18 years or under, employed in summer  
 46 camps operated by the Boy Scouts of America, the Girl Scouts of  
 47 America, the Knights of Columbus, the Young Men's Christian  
 48 Association, the Young Women's Christian Association, the Young  
 49 Men's Hebrew Association, or any domestic corporation organized  
 50 solely for religious or charitable purposes, *or student-learners em-*  
 51 *ployed in a cooperative vocational education program approved*  
 52 *by the State Board of Education.*

1 5. R. S. 34:15-12 is amended to read as follows:

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

3 a. For injury producing temporary disability, [66 $\frac{2}{3}$ %] 70%  
 4 of the *worker's* weekly wages received at the time of the injury,  
 5 subject to a maximum compensation of [66 $\frac{2}{3}$ %] 75% of the  
 6 average weekly wages earned by all employees covered by the  
 7 Unemployment Compensation Law (R. S. 43:21-1 et seq.) and a  
 8 minimum of 20% of such average weekly wages [\$15.00] a week.  
 9 This compensation shall be paid during the period of such dis-  
 10 ability, not however, beyond [300] 400 weeks. The amount of  
 11 the maximum compensation shall be computed, determined,  
 12 rounded out to the nearest dollar, and promulgated by the Com-

13 commissioner of Labor and Industry on or before September 1 in each  
14 year based on said average weekly wages as of the calendar year  
15 preceding, and shall be effective as to injuries occurring in the  
16 calendar year following~~[,]~~ such promulgation. In any year in  
17 which the maximum benefit rate based upon said computation  
18 would not be increased or decreased beyond \$1.00 in amount, the  
19 rate promulgated theretofore shall continue.

20 b. For disability total in character and permanent in quality,  
21 ~~66 $\frac{2}{3}$ %~~ 70% of the weekly wages received at the time of injury,  
22 subject to a maximum *and a minimum* compensation as stated  
23 in paragraph "a" hereof ~~[and a minimum of \$15.00 per week]~~.  
24 This compensation shall be paid for a period of 450 weeks, at which  
25 time compensation payments shall cease unless the employee  
26 shall have submitted to such physical or educational rehabilitation  
27 as may have been ordered by the rehabilitation commission, and  
28 can show that because of such disability it is impossible for ~~[him]~~  
29 *the employee* to obtain wages or earnings equal to those earned  
30 at the time of the accident, in which case further weekly payments  
31 shall be made during the period of such disability, the amount  
32 thereof to be the previous weekly compensation payment dimin-  
33 ished by that portion thereof that the wage, or earnings, ~~[he]~~  
34 *the employee* is then able to earn, bears to the wages received  
35 at the time of the accident. If ~~[his]~~ *the employee's* wages or  
36 earnings equal or exceed wages received at the time of the acci-  
37 dent, then ~~[his]~~ *the* compensation rate shall be reduced to \$5.00.  
38 In calculating compensation for this extension beyond 450 weeks  
39 the *above* minimum provision ~~[of]~~ ~~[\$15.00]~~ shall not apply. This  
40 extension of compensation payments beyond 450 weeks shall be  
41 subject to such periodic reconsiderations and extensions as the  
42 case may require, and shall apply only to disability total in  
43 character and permanent in quality, and shall not apply to any  
44 accident occurring prior to July 4, 1923.

45 c. For disability partial in character and permanent in quality,  
46 weekly compensation shall be paid based upon 70% of the weekly  
47 wages received at the time of the injury, subject to a maximum  
48 compensation per week of ~~[\$40.00 per week]~~ 75% of the statewide  
49 average weekly wages (SAWW) earned by all employees covered  
50 by the Unemployment Compensation Law (R. S. 43:21-1 et seq.)  
51 and paid in accordance with the following "Disability Wage and  
52 Compensation Schedule" and a minimum of ~~[\$10.00]~~ \$35.00 per  
53 week ~~[in accordance with the following "Wage and Compensation~~  
54 ~~Schedule']~~. *The amount of awards for up to and including 180*  
55 *weeks shall remain at the amounts listed in the "Disability Wage*

56 and Compensation Schedule" until January 1, 1982. On January  
 57 1, 1982, the dollar amounts listed for the first 180 weeks in the  
 58 "Disability Wage and Compensation Schedule" shall be replaced  
 59 by the following percentages of the statewide average weekly  
 60 wage:

61	\$47—20% of the statewide	\$61—26% SAWW
62	average weekly	\$63—27% SAWW
63	wages, hereinafter	\$66—28% SAWW
64	referred to as "SAWW"	\$68—29% SAWW
65	\$49—21% SAWW	\$70—30% SAWW
66	\$51—22% SAWW	\$73—31% SAWW
67	\$54—23% SAWW	\$75—32% SAWW
68	\$56—24% SAWW	\$77—33% SAWW
69	\$59—25% SAWW	\$80—34% SAWW
70		\$82—35% SAWW

71 In the event that the 20% limitation for attorney fees as set forth  
 72 in R. S. 34:15-64 is reduced to a maximum of 10% before January  
 73 1, 1982, the above schedule shall be effective within 60 days of such  
 74 reduction in attorney fees. All amounts in the "Disability Wage  
 75 and Compensation Schedule" shall be rounded out to the nearest  
 76 dollar. When a claim petition alleges more than one disability,  
 77 the number of weeks in the award shall be determined and entered  
 78 separately for each such disability and the number of weeks for  
 79 each disability shall not be cumulative when entering an award.

	Weekly Wage	Weekly Compensation	Weekly Wage	Weekly Compensation
80	\$15.00 or less	\$10.00 min.	\$37.51-39.00	\$26.00
81	15.01-16.50	11.00	39.01-40.50	27.00
82	16.51-18.00	12.00	40.51-42.00	28.00
83	18.01-19.50	13.00	42.01-43.50	29.00
84	19.51-21.00	14.00	43.51-45.00	30.00
85	21.01-22.50	15.00	45.01-47.50	31.00
86	22.51-24.00	16.00	47.51-50.00	32.00
87	24.01-25.50	17.00	50.01-52.50	33.00
88	25.51-27.00	18.00	52.51-55.00	34.00
89	27.01-28.50	19.00	55.01-57.50	35.00
90	28.51-30.00	20.00	57.51-60.00	36.00
91	30.01-31.50	21.00	60.01-62.50	37.00
92	31.51-33.00	22.00	62.51-65.00	38.00
93	33.01-34.50	23.00	65.01-67.50	39.00
94	34.51-36.00	24.00	67.51 and over	40 max.】
95	36.01-37.50	25.00		

## DISABILITY WAGE AND COMPENSATION SCHEDULE

	<i>Weeks of Allowable Compensation</i>	<i>Maximum Weekly Compensation Applicable</i>
96	<i>First 90 weeks</i>	<i>\$47</i>
97	<i>91 through 96 weeks</i>	<i>\$49</i>
98	<i>97 through 102 weeks</i>	<i>\$49 for the first 96 weeks</i>
99		<i>then \$51 for each remaining week</i>
100	<i>103 through 108 weeks</i>	<i>\$49 for the first 96 weeks</i>
101		<i>then \$51 for the next 6 weeks</i>
102		<i>then \$54 for each remaining week</i>
103	<i>109 - 114 weeks</i>	<i>\$49 for first 96 weeks</i>
104		<i>then \$51 for the next 6 weeks</i>
105		<i>then \$54 for the next 6 weeks</i>
106		<i>then \$56 for each remaining week</i>
107	<i>115 - 120 weeks</i>	<i>\$49 for the first 96 weeks</i>
108		<i>then \$51 for the next 6 weeks</i>
109		<i>then \$54 for the next 6 weeks</i>
110		<i>then \$56 for the next 6 weeks</i>
111		<i>\$59 for each remaining week</i>
112	<i>121 - 126 weeks</i>	<i>\$49 for the first 96 weeks</i>
113		<i>then \$51 for the next 6 weeks</i>
114		<i>then \$54 for the next 6 weeks</i>
115		<i>then \$56 for the next 6 weeks</i>
116		<i>then \$59 for the next 6 weeks</i>
117		<i>then \$61 for each remaining week</i>
118	<i>127 - 132 weeks</i>	<i>\$49 for the first 96 weeks</i>
119		<i>then \$51 for the next 6 weeks</i>
120		<i>then \$54 for the next 6 weeks</i>
121		<i>then \$56 for the next 6 weeks</i>
122		<i>then \$59 for the next 6 weeks</i>
123		<i>then \$61 for the next 6 weeks</i>
124		<i>then \$63 for each remaining week</i>
125	<i>133 - 138 weeks</i>	<i>\$49 for the first 96 weeks</i>
126		<i>then \$51 for the next 6 weeks</i>
127		<i>then \$54 for the next 6 weeks</i>
128		<i>then \$56 for the next 6 weeks</i>
129		<i>then \$59 for the next 6 weeks</i>
130		<i>then \$61 for the next 6 weeks</i>
131		<i>then \$63 for the next 6 weeks</i>
132		<i>then \$66 for each remaining week</i>



## DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

Weeks of Allowable Compensation	Maximum Weekly Compensation Applicable
133 139 - 144 weeks	\$49 for the first 96 weeks
134	then \$51 for the next 6 weeks
135	then \$54 for the next 6 weeks
136	then \$56 for the next 6 weeks
137	then \$59 for the next 6 weeks
138	then \$61 for the next 6 weeks
139	then \$63 for the next 6 weeks
140	then \$66 for the next 6 weeks
141	then \$68 for each remaining week
142 145 - 150 weeks	\$49 for the first 96 weeks
143	then \$51 for the next 6 weeks
144	then \$54 for the next 6 weeks
145	then \$56 for the next 6 weeks
146	then \$59 for the next 6 weeks
147	then \$61 for the next 6 weeks
148	then \$63 for the next 6 weeks
149	then \$66 for the next 6 weeks
150	then \$68 for the next 6 weeks
151	then \$70 for each remaining week
152 151 - 156 weeks	\$49 for the first 96 weeks
153	then \$51 for the next 6 weeks
154	then \$54 for the next 6 weeks
155	then \$56 for the next 6 weeks
156	then \$59 for the next 6 weeks
157	then \$61 for the next 6 weeks
158	then \$63 for the next 6 weeks
159	then \$66 for the next 6 weeks
160	then \$68 for the next 6 weeks
161	then \$70 for the next 6 weeks
162	then \$73 for each remaining week
163 157 - 162 weeks	\$49 for the first 96 weeks
164	then \$51 for the next 6 weeks
165	then \$54 for the next 6 weeks
166	then \$56 for the next 6 weeks
167	then \$59 for the next 6 weeks
168	then \$61 for the next 6 weeks
169	then \$63 for the next 6 weeks
170	then \$66 for the next 6 weeks
171	then \$68 for the next 6 weeks
172	then \$70 for the next 6 weeks
173	then \$73 for the next 6 weeks
174	then \$75 for each remaining week

## DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

<i>Weeks of Allowable Compensation</i>	<i>Maximum Weekly Compensation Applicable</i>
175	<i>163 - 168 weeks ..... \$49 for the first 96 weeks</i>
176	<i>then \$51 for the next 6 weeks</i>
177	<i>then \$54 for the next 6 weeks</i>
178	<i>then \$56 for the next 6 weeks</i>
179	<i>then \$59 for the next 6 weeks</i>
180	<i>then \$61 for the next 6 weeks</i>
181	<i>then \$63 for the next 6 weeks</i>
182	<i>then \$66 for the next 6 weeks</i>
183	<i>then \$68 for the next 6 weeks</i>
184	<i>then \$70 for the next 6 weeks</i>
185	<i>then \$73 for the next 6 weeks</i>
186	<i>then \$75 for the next 6 weeks</i>
187	<i>then \$77 for each remaining week</i>
188	<i>169 - 174 weeks ..... \$49 for the first 96 weeks</i>
189	<i>then \$51 for the next 6 weeks</i>
190	<i>then \$54 for the next 6 weeks</i>
191	<i>then \$56 for the next 6 weeks</i>
192	<i>then \$59 for the next 6 weeks</i>
193	<i>then \$61 for the next 6 weeks</i>
194	<i>then \$63 for the next 6 weeks</i>
195	<i>then \$66 for the next 6 weeks</i>
196	<i>then \$68 for the next 6 weeks</i>
197	<i>then \$70 for the next 6 weeks</i>
198	<i>then \$73 for the next 6 weeks</i>
199	<i>then \$75 for the next 6 weeks</i>
200	<i>then \$77 for the next 6 weeks</i>
201	<i>then \$80 for each remaining week</i>
202	<i>175 - 180 weeks ..... \$49 for the first 96 weeks</i>
203	<i>then \$51 for the next 6 weeks</i>
204	<i>then \$54 for the next 6 weeks</i>
205	<i>then \$56 for the next 6 weeks</i>
206	<i>then \$59 for the next 6 weeks</i>
207	<i>then \$61 for the next 6 weeks</i>
208	<i>then \$63 for the next 6 weeks</i>
209	<i>then \$66 for the next 6 weeks</i>
210	<i>then \$68 for the next 6 weeks</i>
211	<i>then \$70 for the next 6 weeks</i>
212	<i>then \$73 for the next 6 weeks</i>
213	<i>then \$75 for the next 6 weeks</i>
214	<i>then \$77 for the next 6 weeks</i>
215	<i>then \$80 for the next 6 weeks</i>
216	<i>then \$82 for each remaining week</i>

DISABILITY WAGE AND COMPENSATION SCHEDULE (Cont'd)

	<i>Weeks of Allowable Compensation</i>	<i>Maximum Weekly Compensation Applicable</i>
217	181 - 210 weeks .....	35% of the Statewide average
218		weekly wages, hereinafter re-
219		ferred to as "SAWW"
220	211 - 240 weeks .....	40% of SAWW
221	241 - 270 weeks .....	45% of SAWW
222	271 - 300 weeks .....	50% of SAWW
223	301 - 330 weeks .....	55% of SAWW
224	331 - 360 weeks .....	60% of SAWW
225	361 - 390 weeks .....	65% of SAWW
226	391 - 420 weeks .....	70% of SAWW
227	421 - 600 weeks .....	75% of SAWW

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

	Lost Member	Number of Weeks Compensation
231	1. Thumb .....	75
232	2. First finger (commonly called index finger)	50
233	3. Second finger .....	40
234	4. Third finger .....	30
235	5. Fourth finger (commonly called little	
236	finger) .....	20
237	6. Great toe .....	40
238	7. Toe, other than a great toe .....	15
239	8. Hand, or thumb and first and second	
240	fingers (on one hand) or four fingers	
241-242	(on one hand) .....	<b>[230]</b> 245
243	9. Arm .....	<b>[300]</b> 330
244	10. Foot .....	<b>[200]</b> 230
245	11. Leg .....	<b>[275]</b> 315

246 12. The loss of the first phalange of the thumb or of any finger  
 247 shall be considered to be equal to the loss of 1/2 of such thumb  
 248 or finger, and the compensation shall be for 1/2 of the periods of  
 249 time above specified. The loss of any portion of the thumb or  
 250 any finger between the terminal joint and the end thereof shall  
 251 be compensated for a like proportion of the period of time pre-  
 252 scribed for the loss of the first phalange of such member.

253 13. The loss of the first phalange and any portion of the second  
 254 shall be considered as the loss of the entire finger or thumb, but

255 in no case shall the amount received for more than one finger  
256 exceed the amount provided in this schedule for the loss of a hand.

256A 14. The loss of the first phalange of any toe shall be considered  
257 to be equal to the loss of  $\frac{1}{2}$  of such toe, and compensation shall  
258 be for  $\frac{1}{2}$  of the period of time above specified.

259 15. The loss of the first phalange and any portion of the second  
260 shall be considered as the loss of the entire toe.

261 16. For the loss of vision of an eye 200 weeks.

262 17. For the enucleation of an eye, 25 weeks, in addition to such  
263 compensation, if any, as may be allowable under subparagraph 16.

264 18. For the loss of a natural tooth, 4 weeks for each tooth lost.

265 19. For the total loss of hearing in one ear, 60 weeks. For the  
266 total loss of hearing in both ears by one accident, 200 weeks.

267 20. The loss of both hands, or both arms, or both feet, or both  
268 legs, or both eyes, or any two thereof as the result of any one  
269 accident, shall constitute total and permanent disability to be  
270 compensated according to the provisions of paragraph "b."

271 21. Amputation between the elbow and the wrist shall be con-  
272 sidered as the equivalent of the loss of a hand and amputation  
273 at the elbow shall be considered equivalent to the loss of the arm.  
274 Amputation between the knee and ankle shall be considered as  
275 the equivalent of the loss of a foot, and amputation at the knee  
276 shall be considered equivalent to the loss of the leg. *An additional*  
277 *amount of 30% of the amputation award shall be added to that*  
278 *award to compute the total award made in amputations of body*  
279 *members, provided however that this additional amount shall not*  
280 *be subject to legal fees.*

281 22. In all lesser or other cases involving permanent loss, or  
282 where the usefulness of a member of any physical function is  
283 permanently impaired, the duration of compensation shall bear  
284 such relation to the specific periods of time stated in the above  
285 schedule as the disabilities bear to those produced by the injuries  
286 named in the schedule. In cases in which the disability is deter-  
287 mined as a percentage of total and permanent disability, the  
288 duration of the compensation shall be a corresponding portion of  
289 [550] 600 weeks. Should the employer and employee be unable  
290 to agree upon the amount of compensation to be paid in cases not  
291 covered by the schedule, either party may appeal to the Division  
292 of [Workmen's] Workers' Compensation for a settlement of the  
293 controversy.

294 23. Where there is a traumatic hernia compensation will be  
295 allowed if notice thereof is given by the claimant to the employer

296 within 48 hours after the occurrence of the hernia but any Sunday,  
297 Saturday or holiday shall be excluded from this 48-hour period.

298 d. If previous loss of function to the body, head, a member or  
299 an organ, due to any previous compensable accident or accidents,  
300 is established by competent evidence, and subsequently an injury  
301 or occupational disease arising out of and in the course of an  
302 employment occurs to that part of the body, head, member or  
303 organ, where there was a previous loss of function, then and  
304 in such case, the employer or his the employer's insurance car-  
305 rier at the time of the subsequent injury or occupational disease  
306 shall not be liable for any such loss for which compensation has  
307 previously been paid or awarded. In either event, and credit  
308 shall be given the employer or his the employer's insurance  
309 carrier to the extent of the previous loss for which compensation  
310 has been paid for the previous loss of function and the burden of  
311 proof in such matters shall rest on the employer.

312 e. In case of the death of the person from any cause other than  
313 the accident or occupational disease, during the period of pay-  
314 ments for permanent injury, the remaining payments shall be paid  
315 to such of his or her the deceased person's dependents as are  
316 included in the provisions of said section 34:15-13 or, if no de-  
317 pendents, the remaining amount due, but not exceeding \$750.00  
318 \$2,000.00, shall be paid in a lump sum to the proper person for  
319 funeral expenses; but no compensation shall be due any other  
320 person than the injured employee on account of compensation  
321 being paid in excess of 450 weeks on account of disability total  
322 in character and permanent in quality as provided by paragraph  
323 b. of this section.

1 6. R. S. 34:15-13 is amended to read as follows:

2 34:15-13. Except as hereinafter provided, in case of death, com-  
3 pensation shall be computed, but not distributed, on the following  
4 basis:

5 a. For one dependent, 50% of wages.

6 b. For two dependents, 55% of wages.

7 c. For three dependents, 60% of wages.

8 d. For four dependents, 65% of wages.

9-10 e. For five or more dependents, 70% of wages.

11 f. The term "dependents" shall apply to and include any or all  
12 of the following who are dependent upon the deceased at the time  
13 of accident or the occurrence of occupational disease, or at the time  
14 of death, namely: husband, wife, parent, stepparents, grand-  
15 parents, children, stepchildren, grandchildren, child in esse, post-

16 humous child, illegitimate children, brothers, sisters, half brothers,  
17 half sisters, niece, nephew. Legally adopted children shall, in every  
18 particular, be considered as natural children. Dependency shall be  
19 conclusively presumed as to the decedent's [widow] spouse and to  
20 the natural children under 18 years of age of a [male or female]  
21 decedent who were actually a part of the decedent's household at  
22 the time of [his] *the decedent's* death. Every provision of this  
23 article applying to one class shall be equally applicable to the  
24 other. Should any dependent of a deceased employee die during the  
25 period covered by such weekly payments the right of such  
26 dependent to compensation under this section shall cease but  
27 should the [widow] *surviving spouse* of a deceased employee re-  
28 marry during such period and before the total compensation is  
29 paid [she] *the spouse* shall be entitled to receive the remainder  
30 of the compensation which would have been due [her and had she]  
31 *said spouse had the spouse* not remarried, or \$1,000.00, whichever  
32 is the lesser. The foregoing schedule applies only to persons  
33 wholly dependent, and in the case of persons only partially de-  
34 pendent, except in the case of the [widow] *surviving spouse* and  
35 children who were actually a part of the decedent's household at  
36 the time of [his] death, the compensation shall be such proportion  
37 of the scheduled percentage as the amounts actually contributed to  
38 them by the deceased for their support constituted of his total  
39 wages and the provision as to a [\$15.00] minimum of 20% of the  
40 *average weekly wage as set forth in paragraph a.* shall not apply  
41 to such compensation. In determining the number of dependents,  
42 where the deceased employee was a minor, the number of persons  
43 dependent upon the deceased employee shall be determined in the  
44 same way as if the deceased employee were an adult, notwithstand-  
45 ing any rule of law as to the person entitled to a minor's wages.

46 g. Compensation shall be computed upon the foregoing basis.  
47 Distribution shall be made among dependents, if more than one,  
48 according to the order of the Division of [Workmen's] *Workers'*  
49 Compensation, which shall, when applied to for that purpose,  
50 determine, upon the facts being presented to it, the proportion to  
51 be paid to or on behalf of each dependent according to the relative-  
52 dependency. Payment on behalf of infants shall be made to the  
53 surviving parent, if any, or to the statutory or testamentary  
54 guardian.

55 h. If death results from the accident or occupational disease,  
56 whether there be dependents or not, expenses of the last sickness  
57 of the deceased employee shall be paid in accordance with the pro-  
58 visions for medical and hospital service as set forth in section

59 34:15-15 of this Title. Also the cost of burial, not to exceed  
 60 ~~[\$750.00]~~ \$2,000.00 shall be paid to the dependent or other person  
 60A having paid said costs of burial. In the event that the said depend-  
 60B ent or other person has paid less than ~~[\$750.00]~~ \$2,000.00 the said  
 61 dependent or other person shall be reimbursed in the amount paid  
 62 and, if the costs of burial exceed the amount so paid, the difference  
 63 between the said amount and ~~[\$750.00]~~ \$2,000.00 or so much thereof  
 64 as may be necessary to pay the cost of burial, shall be paid to the  
 65 undertaker or embalmer. In the event that no part of the costs of  
 66 burial has been paid, the amount of such cost of burial, not to  
 67 exceed ~~[\$750.00]~~ \$2,000.00, shall be paid to the undertaker or  
 67A embalmer.

68 i. In computing compensation to those named in this section,  
 69 except husband, wife, parents and stepparents, only those under 18  
 70 or over 40 years of age shall be included and then only for that  
 71 period in which they are under 18 or over 40; provided, however,  
 72 that payments to such physically or mentally deficient persons as  
 73 are for such reason dependent shall be made during the full com-  
 74 pensation period of 450 weeks.

75 j. The maximum compensation in case of death shall be subject  
 76 to the maximum compensation as stated in paragraph a. of section  
 77 34:15-12 of this Title and a minimum of ~~[\$15.00 per week]~~ 20% of  
 78 *average weekly wages per week as set forth in paragraph a. above,*  
 79 except in the case of partial dependency as provided in this section.  
 80 This compensation shall be paid, in the case of a ~~[widow]~~, *surviving*  
 81 *spouse* during the entire period of ~~[widowhood]~~ *survivorship or*  
 82 *until such surviving spouse shall remarry* except that any earnings  
 83 from employment by the ~~[widow]~~ *surviving spouse* after 450 weeks  
 84 of compensation have been paid shall be deducted from the com-  
 85 pensation thereafter payable to ~~[the widow]~~ *said spouse* and, in  
 86 the case of other dependents, during 450 weeks and if at the expira-  
 87 tion of 450 weeks there shall be one or more dependents under 18  
 88 years of age compensation shall be continued for such dependents  
 89 until they reach 18 years of age at the schedule provided under  
 90 paragraphs a. to e. of this section.

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

2 34:15-15. The employer shall furnish to the injured ~~[workman]~~  
 3 *worker* such medical, surgical and other treatment, and hospital  
 4 service as shall be necessary to cure and relieve the ~~[workman]~~  
 5 *worker* of the effects of the injury and to restore the functions of  
 6 the injured member or organ where such restoration is possible;  
 7 provided, however, that the employer shall not be liable to furnish  
 8 or pay for physicians' or surgeons' services in excess of \$50.00

9 and in addition to furnish hospital service in excess of \$50.00,  
10 unless the injured [workman] *worker* or the *worker's* physician  
11 who [treats him] *provides treatment*, or any other person on  
12 [his] *the worker's* behalf, shall file a petition with the [workmen's  
13 compensation bureau] *Division of Workers' Compensation* stating  
14 the need for physicians' or surgeons' services in excess of \$50.00, as  
15 aforesaid, and such hospital service or appliances in excess of  
16 \$50.00, as aforesaid, and the [workmen's compensation bureau]  
17 *Division of Workers' Compensation* after investigating the need of  
18 the same and giving the employer an opportunity to be heard, shall  
19 determine that such physicians' and surgeons' treatment and  
20 hospital services are or were necessary, and that the fees for the  
21 same are reasonable and shall make an order requiring the employer  
22 to pay for or furnish the same. *The mere furnishing of medical*  
23 *treatment or the payment thereof by the employer shall not be con-*  
24 *strued to be an admission of liability.*

25 If the employer shall refuse or neglect to comply with the fore-  
26 going provisions of this section, the employee may secure such  
27 treatment and services as may be necessary and as may come within  
28 the terms of this section, and the employer shall be liable to pay  
29 therefor; provided, however, that the employer shall not be liable  
30 for any amount expended by the employee or by any third person  
31 on [his] *the employee's* behalf for any such physicians' treatment  
32 and hospital services, unless such employee or any person on [his]  
33 *the employee's* behalf shall have requested the employer to furnish  
34 the same and the employer shall have refused or neglected so to do,  
35 or unless the nature of the injury required such services, and the  
36 employer or [his] *the superintendent or foreman of the employer*,  
37 having knowledge of such injury shall have neglected to provide  
38 the same, or unless the injury occurred under such conditions as  
39 make impossible the notification of the employer, or unless the  
40 circumstances are so peculiar as shall justify, in the opinion of the  
41 [workmen's compensation bureau] *Division of Workers' Com-*  
42 *ensation*, the expenditures assumed by the employee for such  
43 physicians' treatment and hospital services, apparatus and  
44 appliances.

45 All fees and other charges for such physicians' and surgeons'  
46 treatment and hospital treatment shall be reasonable and based  
47 upon the usual fees and charges which prevail in the same com-  
48 munity for similar physicians', surgeons' and hospital services.

49 When an injured employee may be partially or wholly relieved  
50 of the effects of a permanent injury, by use of an artificial limb or  
51 other appliance, which phrase shall also include artificial teeth or



52 glass eye, the [workmen's compensation bureau] *Division of*  
53 *Workers' Compensation*, acting under competent medical advice,  
54 is empowered to determine the character and nature of such limb  
55 or appliance, and to require the employer or [his] *the employer's*  
56 insurance carrier to furnish the same.

1 8. R. S. 34:15-20 is amended to read as follows:

2 34:15-20. In case of a dispute over or failure to agree upon a  
3 claim for compensation between employer and employee, or the  
4 dependents of the employee, either party may submit the claim,  
5 both as to the questions of fact, the nature and effect of the injuries,  
6 and the amount of compensation therefor according to the schedule  
7 herein provided, to the [workmen's compensation bureau]  
8 *Division of Workers' Compensation*, as prescribed in article 4 of  
9 this chapter (section 34:15-49 et seq.). *After a petition for com-*  
10 *ensation or dependency claims has been filed, seeking compensa-*  
11 *tion by reason of accident, injury or occupational disease of any*  
12 *employee, and when the petitioner is represented by an attorney*  
13 *of the State of New Jersey, and when it shall appear that the issue*  
14 *or issues involve the question of jurisdiction, liability, causal*  
15 *relationship or dependency of the petitioner under this chapter,*  
16 *and the petitioner and the respondent are desirous of entering into*  
17 *a lump-sum settlement of the controversy, a judge of compensation*  
18 *may with the consent of the parties, after considering the testimony*  
19 *of the petitioner and other witnesses, together with any stipulation*  
20 *of the parties, and after such judge of compensation has determined*  
21 *that such settlement is fair and just under all the circumstances,*  
22 *enter "an order approving settlement." Such settlement, when*  
23 *so approved, notwithstanding any other provisions of this chapter,*  
24 *shall have the force and effect of a dismissal of the claim petition*  
25 *and shall be final and conclusive upon the employee and [his] the*  
26 *employee's dependents, and shall be a complete surrender of any*  
27 *right to compensation or other benefits arising out of such claim*  
28 *under the statute. Any payments made under this section shall be*  
29 *recognized as payments of workers' compensation benefits for in-*  
30 *surance rating purposes only.*

1 9. R. S. 34:15-30 is amended to read as follows:

2 34:15-30. When employer and employee have accepted the  
3 provisions of this article as aforesaid, compensation for personal  
4 injuries to or for death of such employee by any compensable  
5 occupational disease arising out of and in the course of his  
6 employment, as hereinafter defined, shall be made by the employer  
7 to the extent hereinafter set forth and without regard to the  
8 negligence of the employer, except that no compensation shall be

9 payable when the injury or death by occupational disease is  
 10 caused by willful self-exposure to a known hazard [with the  
 11 intention of contracting an occupational disease] or by the em-  
 12 ployee's willful failure to make use of a reasonable and proper  
 13 guard or personal protective device furnished by the employer  
 14 which has been clearly made a requirement of the employee's  
 15 employment by the employer \*and which an employer can properly  
 16 document that despite repeated warnings, the employee has will-  
 17 fully failed to properly and effectively utilize, provided, however,  
 18 this latter provision shall not apply where there is such imminent  
 19 danger or need for immediate action which does not allow for  
 20 appropriate use of personal protective device or devices\*.

1 10. R. S. 34:15-31 is amended to read as follows:

2 34:15-31. a. For the purpose of this article, the phrase "com-  
 3 pensable occupational disease" shall include all diseases arising  
 4 out of and in the course of employment, which are due in a material  
 5 degree to causes and conditions which are or were characteristic  
 6 of or peculiar to a particular trade, occupation, process or \*place  
 7 of\* employment[, or which diseases are due to the exposure of any  
 8 employee to a cause thereof arising out of and in the course of his  
 9 employment].

10 b. Deterioration of a tissue, organ or part of the body in which  
 11 the function of such tissue, organ or part of the body is diminished  
 12 due to the natural aging process thereof is not compensable.

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

2 34:15-34. Notwithstanding the time limitation for the filing  
 3 of claims for compensation as set forth in sections 34:15-41 and  
 4 34:15-51, or as set forth in any other section of this Title, there  
 5 shall be no time limitation upon the filing of claims for compensa-  
 6 tion for compensable occupational disease, as hereinabove defined;  
 7 provided, however, that where a claimant knew the nature of the  
 8 disability and its relation to the employment, all claims for  
 9 compensation for compensable occupational disease *except as*  
 10 *herein provided* shall be barred unless a petition is filed in dupli-  
 11 cate with the secretary of the division in Trenton within 2 years  
 12 after the date on which the claimant [first had such knowledge]  
 13 *first knew the nature of the disability and its relation to the*  
 14 *employment*; provided further, that in case an agreement of com-  
 15 pensation for compensable occupational disease has been made  
 16 between such employer and such claimant, then an employee's  
 17 claim for compensation shall be barred unless a petition for  
 18 compensation is duly filed with such secretary within 2 years  
 19 after the failure of the employer to make payment pursuant to

20 the terms of such agreement; or in case a part of the compensation  
 21 has been paid by such employer, then within 2 years after the last  
 22 payment of compensation. *It is the express intention of the*  
 23 *Legislature that, except in any case where claim is made for*  
 24 *asbestosis, radiation poisoning, siderosis, anthracosis, silicosis,*  
 25 *mercury poisoning, beryllium poisoning, chrome poisoning, lead*  
 26 *poisoning or any occupational disease having the same char-*  
 27 *acteristics of the above enumerated diseases as subsequently*  
 28 *determined by the National Institute for Occupational Safety*  
 29 *and Health, the provisions of this section shall not be applied*  
 30 *retroactively but shall be applied only to those employees who*  
 31 *shall cease to have been exposed in the course of employment to*  
 32 *causes of compensable occupational diseases as defined in 34:15-31*  
 33 *(a) subsequent to January 1, 1980.*

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

1 12. R. S. 34:15-36 is amended to read as follows:

2 34:15-36. "Willful negligence" within the intent of this chapter  
 3 shall consist of (1) deliberate act or deliberate failure to act, or (2)  
 4 such conduct as evidences reckless indifference to safety, or (3)  
 5 intoxication, operating as the proximate cause of injury, or (4)  
 6 *unlawful use of a controlled dangerous substance as defined in the*  
 7 *"New Jersey Controlled Dangerous Substances Act", P. L. 1970,*  
 8 *c. \***[266]**\* \*226\* (C. 24:21-1 et seq.).*

9 "Employer" is declared to be synonymous with master, and  
 10 includes natural persons, partnerships, and corporations; "em-  
 11 ployee" is synonymous with servant, and includes all natural  
 12 persons, including officers of corporations, who performed service  
 13 for an employer for financial consideration, exclusive of casual  
 14 employments, which shall be defined, if in connection with the  
 15 employer's business, as employment the occasion for which arises  
 16 by chance or is purely accidental; or if not in connection with any  
 17 business of the employer, as employment not regular, periodic or  
 18 recurring; provided, however, that forest fire wardens and forest  
 19 fire fighters employed by the State of New Jersey shall, in no event,  
 20 be deemed casual employees.

21 *Employment shall be deemed to commence when an employee*  
 22 *arrives at the employer's place of employment to report for work*  
 23 *and shall terminate when the employee leaves the employer's place*  
 24 *of employment excluding areas not under the control of the em-*  
 25 *ployer; provided, however, when the employee is required by the*

26 employer to be away from the employer's place of employment,  
 27 the employee shall be deemed to be in the course of employment  
 28 when the employee is engaged in the direct performance of duties  
 29 assigned or directed by the employer; but the employment of em-  
 30 ployee paid travel time by an employer for time spent traveling  
 31 to and from a job site or of any employee who utilizes an employer  
 32 authorized vehicle shall commence and terminate with the time  
 33 spent traveling to and from a job site or the authorized operation  
 34 of a vehicle on business authorized by the employer. \*Travel by a  
 34A policeman or fireman in responding to an emergency shall be  
 34B deemed to be in the course of employment.\*

35 "Disability permanent in quality and partial in character"  
 36 means a permanent impairment caused by a compensable accident  
 37 or compensable occupational disease, based upon demonstrable  
 38 objective medical evidence, which restricts the function of the body  
 39 or of its members or organs\***[**, and which also lessens to a material  
 40 degree an employee's working ability; provided, however, injuries  
 41 such as minor lacerations, minor contusions, minor sprains, and  
 42 scars which do not constitute significant permanent disfigurement,  
 43 and occupational disease of a minor nature such as mild dermatitis  
 44 and mild bronchitis shall not constitute permanent disability within  
 45 the meaning of this definition.]\* \*; included in the criteria which  
 45A shall be considered shall be whether there has been a lessening to a  
 45B material degree of an employee's working ability. Subject to the  
 45C above provisions nothing in this definition shall be construed to  
 45D preclude benefits to a worker who returns to work following a  
 45E compensable accident even if there be no reduction in earnings.  
 45F Injuries such as minor lacerations, minor contusions, minor sprains,  
 45G and scars which do not constitute significant permanent disfigure-  
 45H ment, and occupational disease of a minor nature such as mild  
 45I dermatitis and mild bronchitis shall not constitute permanent dis-  
 45J ability within the meaning of this definition.\*

46 "Disability permanent in quality and total in character" means  
 47 a physical or neuropsychiatric total permanent impairment caused  
 48 by a compensable accident or compensable occupational disease  
 49 where no fundamental or marked improvement in such condition  
 50 can be reasonably expected.

51 Factors other than physical and neuropsychiatric impairment may  
 52 be considered in the determination of permanent total disability  
 53 where such physical and neuropsychiatric impairments constitute  
 54 at least 75% or higher of total disability.

1 13. R. S. 34:15-37 is amended to read as follows:

2 34:15-37. "Wages," when used in this chapter, shall be construed  
3 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  
5 accident. Board and lodging when furnished by the employer as  
6 part of the wages shall be included and valued at \$25.00 per week,  
7 unless the money value of such advantages shall have been other-  
8 wise fixed by the parties of the time of hiring. Where prior to the  
9 accident, the rate of wages is fixed by the output of the employee,  
10 the daily wages shall be calculated by dividing the number of days  
11 the [workman] *worker* was actually employed into the total  
12 amount the employee earned during the preceding 6 months, or so  
13 much thereof as shall refer to employment by the same employer.  
14 When the rate of wages is fixed by the hour, the daily wage shall be  
15 found by multiplying the hourly rate by the customary number of  
16 working hours constituting an ordinary day in the character of the  
17 work involved. In any case the weekly wage shall be found by  
18 multiplying the daily wage by [5, or if the employee worked a  
19 greater proportion of the week regularly, then by 5½, 6, 6½ or 7,  
20 according to] the customary number of working days constituting  
21 an ordinary week in the character of the work involved\*[\*]\* [Five  
22 days shall constitute a minimum week.] \*[\*If]\* \*; *provided,*  
22A *however, if\* the employee worked less than the customary number*  
23 *of working days constituting an ordinary week in the character*  
24 *of the work involved, the weekly wage \*for the purposes of com-*  
24B *penetration under provisions of R. S. 34:15-12a only\* shall be found*  
25 *by multiplying the hourly rate by the number of hours of*  
26 *work regularly performed by that employee in the character of*  
27 *the work involved. Gratuities, received regularly in the course of*  
28 *employment from other than the employer, shall be included in*  
29 *determining the weekly wage only in those cases where the employer*  
30 *or employee has kept a regular daily or weekly record of the amount*  
31 *of gratuities so received. In such cases the average weekly amount*  
32 *of gratuities over a period of 6 months, or for the entire time of*  
33 *employment, whichever period is less, shall be added to the fixed*  
34 *weekly wage to determine the employee's total weekly wage. If no*  
35 *such record has been kept, then the average amount of the weekly*  
36 *gratuities shall be fixed by the judge of compensation or the referee*  
37 *hearing the matter.*

1 14. R. S. 34:15-51 is amended to read as follows:

2 34:15-51. Every claimant for compensation under Article 2 of  
3 this chapter (§ 34:15-7 et seq.) shall, unless a settlement is effected  
4 or a petition filed under the provisions of 34:15-50 of this Title, file  
5 a petition in duplicate with the [secretary of the bureau in his

6 office, at the State House,] *division* in Trenton, within 2 years after  
7 the date on which the accident occurred, or in case an agreement for  
8 compensation has been made between the employer and the claim-  
9 ant, then within 2 years after the failure of the employer to make  
10 payment pursuant to the terms of such agreement; or in case a part  
11 of the compensation has been paid by the employer, then within  
12 2 years after the last payment of compensation *except that repair*  
13 *or replacement of prosthetic devices shall not be construed to extend*  
14 *the time for filing of a claim petition.* [Any payment made in ac-  
15 cordance with the provisions of article 2 of this chapter (§ 34:15-7  
16 et seq.) shall constitute an agreement for compensation.] A pay-  
17 ment, or agreement to pay by the insurance carrier, shall for the  
18 purpose of this section be deemed payment or agreement by the  
19 employer. The petition shall state the respective addresses of the  
20 petitioner and of the defendant, the facts relating to employment  
21 at the time of injury, the injury in its extent and character, the  
22 amount of wages received at the time of injury, the knowledge of  
23 the employer or notice of the occurrence of the accident, and such  
24 other facts as may be necessary and proper for the information of  
25 the [bureau] *division* and shall state the matter or matters in dis-  
26 pute and the contention of the petitioner with reference thereto.  
27 The petition shall be verified by the oath or affirmation of the  
28 petitioner. Proceedings on behalf of an infant shall be instituted  
29 and prosecuted by a guardian, guardian ad litem, or next friend,  
30 and payment, if any, shall be made to the guardian, guardian ad  
31 litem, or next friend. The [bureau] *division* shall prepare and  
32 print forms of petitions and shall furnish assistance to claimants  
33 in the preparation of such petitions, when requested so to do.

1 15. R. S. 34:15-52 is amended to read as follows:

2 34:15-52. Within 5 days after the filing of the petition or as soon  
3 thereafter as is practicable, the secretary shall cause a copy of the  
4 petition to be served upon the employer by a process server of the  
5 bureau in the manner provided by law for the service of summons.  
6 Annexed to the copy so served shall be a notice directing the em-  
7 ployer to file [his] *an* answer thereto with the secretary of the  
8 bureau within [10] 30 days after the service of the notice, unless the  
9 [bureau] *division* for good cause shall grant further time, which  
10 answer shall give the address of the respondent, and admit or  
11 deny the substantial averments of the petition, and shall state the  
12 contention of the defendant with reference to the matters in dispute  
13 as disclosed by the petition. The answer shall be verified by  
14 the oath or affirmation of the respondent, and shall be filed in  
15 duplicate.

1 16. R. S. 34:15-64 is amended to read as follows:

2 34:15-64. The commissioner, director and the deputy directors  
3 may make such rules and regulations for the conduct of the hearing  
4 not inconsistent with the provisions of this chapter as may, in  
5 **[his]** *the commissioner's* judgment, be necessary. The official con-  
6 ducting any hearing under this chapter may**[, in his discretion,]**  
7 allow to the party in whose favor judgment is entered, costs of  
8 witness fees and a reasonable attorney fee, not exceeding 20% of the  
9 judgment; and a reasonable fee not exceeding \$50.00 for any one  
10 witness, or \$150.00 in any one case, for medical witnesses residing  
11 in the State when in **[his]** *the official's* judgment the services of an  
12 attorney and medical witnesses were necessary at a reasonable  
13 time, prior to any hearing for the proper presentation of the case.  
14 When, however, compensation has been offered and the amount  
15 then due has been tendered in good faith or paid *within 26 weeks*  
16 *from the date of the notification to the employer of an accident or*  
17 *an occupational disease or the employee's final active medical treat-*  
18 *ment or within 26 weeks after the employee's return to work which-*  
19 *ever is later or within 26 weeks after employer's notification of*  
20 *the employee's death \***[or at a reasonable time after the aforesaid***  
21 *26 weeks prior to final hearing]\**, the reasonable allowance for  
22 attorney fee shall be based upon only that part of the judgment  
23 or award in excess of the amount of compensation, theretofore  
24 offered, tendered in good faith or paid. When the amount of the  
25 judgment, or when that part of the judgment or award in excess  
26 of compensation, offered, tendered in good faith or paid as afore-  
27 said, is less than \$200.00, an attorney fee may be allowed not in  
28 excess of \$50.00. **[The State, any county, municipality or school**  
29 **district, or any department, agency or instrumentality of the State**  
30 **or local government, not carrying workmen's compensation in-**  
31 **surance, shall, when a party, be deemed to have tendered compensa-**  
32 **tion whenever compensation has been offered at a reasonable time**  
33 **prior to any hearing.]**

34 All counsel fees of claimants' attorneys for services performed in  
35 matters before the Division of **[Workmen's]** *Workers'* Compensa-  
36 tion, whether or not allowed as part of a judgment, shall be first  
37 approved by the division before payment. Whenever a judgment  
38 or award is made in favor of a petitioner, the deputy directors or  
39 referees shall direct amounts to be deducted for the petitioner's  
40 expenses and to be paid directly to the persons entitled to the same,  
41 the remainder to be paid directly to the petitioner.

1 17. R. S. 34:15-95 is amended to read as follows:

2 34:15-95. The sums collected under section 34:15-94 of this Title  
3 shall constitute a fund out of which a sum shall be set aside each  
4 year by the Commissioner of Labor and Industry from which  
5 compensation payments in accordance with the provisions of para-  
6 graph (b) of section 34:15-12 of this Title shall be made to persons  
7 totally disabled, as a result of experiencing a subsequent permanent  
8 injury under conditions entitling such persons to compensation  
9 therefor, when such persons had previously been permanently and  
10 partially disabled from some other cause; provided, however, that,  
11 notwithstanding the time limit fixed therein, the provisions of  
12 paragraph (b) of said section 34:15-12 relative to extension of  
13 compensation payments beyond 400 or 450 weeks, as the case may  
14 be, shall, with respect to payments from the fund constituted  
15 pursuant to the provisions of this section, apply to any accident  
16 occurring since June 27, 1923, and in no case shall be less than  
17 \$5.00 per week; provided further, however, that no person shall  
18 be eligible to receive payments from such fund:

19 (a) If the disability resulting from the injury caused by **[his]**  
20 *the person's* last compensable accident in itself and irrespective  
21 of any previous condition or disability constitutes total and  
22 permanent disability within the meaning of this Title.

23 (b) **[If permanent total disability results from the aggravation,**  
24 **activation or acceleration, by the last compensable injury, of a pre-**  
25 **existing noncompensable disease or condition.]** (*Deleted by amend-*  
26 *ment.*)

27 (c) If the disease or condition existing prior to the last com-  
28 pensable accident is **[not aggravated or accelerated but is in itself]**  
29 progressive and by reason of such progression subsequent to the  
30 last compensable accident renders **[him]** *the person* totally dis-  
31 abled within the meaning of this Title.

32 (d) If a person who is rendered permanently partially disabled  
33 by the last compensable injury subsequently becomes permanetly  
34 totally disabled by reason of progressive physical deterioration or  
35 preexisting condition or disease.

36 Nothing in the provisions of said paragraphs a., **[b.,]** c. and d.,  
37 however, shall be construed to deny the benefits provided by this  
38 section to any person who has been previously disabled by reason  
39 of total loss of, or total and permanent loss of use of, a hand or  
40 arm or foot or leg or eye, when the total disability is due to the  
41 total loss of, or total and permanent loss of use of, two or more of  
42 said major members of the body, or to any person who in successive  
43 accidents has suffered compensable injuries, each of which, sever-  
44 ally, causes permanent partial disability, but which in conjunction



45 result in permanent total disability. Nor shall anything in para-  
46 graphs a., [b.,] c. and d., aforesaid apply to the case of any person  
47 who is now receiving or who has heretofore received payments  
48 from such fund.

49 Upon the approval of an application for benefits, the compensa-  
50 tion payable from such fund shall be made from the date when  
51 the final payment of compensation by the employer is or was pay-  
52 able for the injury or injuries sustained in the employment wherein  
53 the employee became totally and permanently disabled; provided,  
54 that no payment from such fund shall be made for any period  
55 prior to the date of filing of application therefore; provided,  
56 however, that a person who has received compensation payments  
57 from said fund and who is reinstated or ordered placed on said  
58 fund shall receive payments from the date of last payment from  
59 said fund, save only in the case of a person to whom payments have  
60 been made and then discontinued or suspended because of the  
61 rehabilitation of such person in accordance with the provisions  
62 of paragraph (b) of section 34:15-12 of this Title, or actual employ-  
63 ment for any reason whatsoever, in which case payments from said  
64 fund shall be made from the date of filing application for reinstate-  
65 ment. Payments to such totally disabled employees shall be made  
66 from said fund by the State Treasurer upon warrants of the Com-  
67 missioner of Labor and Industry. This section shall be applicable  
68 to any accident occurring since June 27, 1923, insofar as the  
69 eligibility of and benefits payable to such employees of this class  
70 is concerned; provided, however, that nothing contained herein  
71 shall limit or deprive those persons now receiving or who have  
72 received the benefits under this section from participating in said  
73 fund. All payments from the fund herein created shall be made by  
74 biweekly installment payments. From the fund herein created the  
75 Commissioner of Labor and Industry may use in any one fiscal  
76 year a sum not to exceed the sum of \$12,500.00 for the cost of  
77 administration of the fund including personnel, printing, pro-  
78 fessional fees, and expenses incurred by the Commissioner of  
79 Labor and Industry in the prosecution of defenses in the Division  
80 of [Workmen's] *Workers'* Compensation, and of appeals and  
81 proceedings for review of decisions on applications for benefits  
82 from said fund. No costs or counsel fee for the applicant shall be  
83 allowed against the fund.

84 The Commissioner of Labor and Industry shall annually submit  
85 an accounting of the fund to the State Treasurer.

86 All payments into the fund established by section 34:15-95 of  
87 the Revised Statutes which may have heretofore been made or  
88 required at any time or times are hereby validated and confirmed,  
89 notwithstanding that at the time of such payment or payments  
90 the fund may have equaled or exceeded the sum of \$200,000.00.

1 18. (New section) On or before July 1, 1981, the Commissioner  
2 of Labor and Industry shall submit an accounting of the overall  
3 experience with this act to the Senate Labor, Industry and Pro-  
4 fessions Committee and the Assembly Labor Committee. The  
5 Commissioner of Labor and Industry shall specifically report in  
6 detail the degree of success changes herein have achieved in  
7 increasing awards to the seriously injured and the curtailment of  
8 abuses by participants in accomplishing the reforms sought in  
9 this act. The commissioner shall also prepare a monthly analysis  
10 of all claims handled in the State. Such analysis shall be available  
11 to interested parties and shall include each claim filed and each  
12 claim settled during the month of his report. The commissioner's  
13 monthly report shall include specific details of the final disposition  
14 of claims including the nature and extent of disability, the amounts  
15 awarded in the judgments to the petitioner, and to the attorneys,  
16 doctors and witnesses of the petitioner.

1 19. (New section) The provisions of this amendatory and supple-  
2 mentary act shall apply to accidents and occupational disease  
3 exposures which occur on or after January 1, 1980 and shall not  
4 be applied retroactively to accidents or occupational diseases  
5 occurring prior to January 1, 1980 except to cases where claim  
6 is made for an occupational disease characterized by latent mani-  
7 festation as set forth in R. S. 34:15-34.

1 20. (New section) If the provisions of any article, section, sub-  
2 section, paragraph, subdivision or clause of this act shall be  
3 judged invalid by a court of competent jurisdiction, the order or  
4 judgment shall not affect or invalidate the remainder of any  
5 article, section, subsection, paragraph, subdivision or clause of  
6 this act and, to this end, the provisions of each article, section,  
7 subsection, paragraph, subdivision or clause of this act are de-  
8 clared to be severable.

1 21. This act shall take effect immediately.

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