

34:15-36

**LEGISLATIVE HISTORY CHECKLIST**  
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(Workers Compensation)

**NJSA:** 34:15-36  
**LAWS OF:** 1994 **CHAPTER:** 74  
**BILL NO:** S146  
**SPONSOR(S):** Martin  
**DATE INTRODUCED:** Pre-filed  
**COMMITTEE:** **ASSEMBLY:** Labor  
**SENATE:** Commerce  
**AMENDED DURING PASSAGE:** No  
**DATE OF PASSAGE:** **ASSEMBLY:** June 16, 1994  
**SENATE:** March 31, 1994  
**DATE OF APPROVAL:** July 22, 1994

**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

**SPONSOR STATEMENT:** Yes  
**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes  
**SENATE:** Yes  
**FISCAL NOTE:** No  
**VETO MESSAGE:** No  
**MESSAGE ON SIGNING:** No  
**FOLLOWING WERE PRINTED:**  
**REPORTS:** No  
**HEARINGS:** No

KBG:pp

1 AN ACT exempting from workers' compensation certain  
2 employees who are eligible for compensation under federal law  
3 and amending R.S.34:15-36.

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

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

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

15 "Employer" is declared to be synonymous with master, and  
16 includes natural persons, partnerships, and corporations;  
17 "employee" is synonymous with servant, and includes all natural  
18 persons, including officers of corporations, who perform service  
19 for an employer for financial consideration, exclusive of (1)  
20 employees eligible under the federal "Longshore and Harbor  
21 Workers' Compensation Act," 44 Stat. 1424 (33 U.S.C. §901 et  
22 seq.), for benefits payable with respect to accidental death or  
23 injury, or occupational disease or infection; and (2) casual  
24 employments, which shall be defined, if in connection with the  
25 employer's business, as employment the occasion for which arises  
26 by chance or is purely accidental; or if not in connection with any  
27 business of the employer, as employment not regular, periodic or  
28 recurring; provided, however, that forest fire wardens and forest  
29 firefighters employed by the State of New Jersey shall, in no  
30 event, be deemed casual employees.

31 Employment shall be deemed to commence when an employee  
32 arrives at the employer's place of employment to report for work  
33 and shall terminate when the employee leaves the employer's  
34 place of employment, excluding areas not under the control of  
35 the employer; provided, however, when the employee is required  
36 by the employer to be away from the employer's place of  
37 employment, the employee shall be deemed to be in the course of  
38 employment when the employee is engaged in the direct  
39 performance of duties assigned or directed by the employer; but  
40 the employment of employee paid travel time by an employer for  
41 time spent traveling to and from a job site or of any employee  
42 who utilizes an employer authorized vehicle shall commence and  
43 terminate with the time spent traveling to and from a job site or  
44 the authorized operation of a vehicle on business authorized by

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

Matter underlined thus is new matter.

1 the employer. Travel by a policeman, fireman, or a member of a  
2 first aid or rescue squad, in responding to and returning from an  
3 emergency, shall be deemed to be in the course of employment.

4 . Employment shall also be deemed to commence when an  
5 employee is traveling in a ridesharing arrangement between his or  
6 her place of residence or terminal near such place and his or her  
7 place of employment, if one of the following conditions is  
8 satisfied: the vehicle used in the ridesharing arrangement is  
9 owned, leased or contracted for by the employer, or the employee  
10 is required by the employer to travel in a ridesharing  
11 arrangement as a condition of employment.

12 "Disability permanent in quality and partial in character"  
13 means a permanent impairment caused by a compensable  
14 accident or compensable occupational disease, based upon  
15 demonstrable objective medical evidence, which restricts the  
16 function of the body or of its members or organs; included in the  
17 criteria which shall be considered shall be whether there has been  
18 a lessening to a material degree of an employee's working  
19 ability. Subject to the above provisions, nothing in this definition  
20 shall be construed to preclude benefits to a worker who returns to  
21 work following a compensable accident even if there be no  
22 reduction in earnings. Injuries such as minor lacerations, minor  
23 contusions, minor sprains, and scars which do not constitute  
24 significant permanent disfigurement, and occupational disease of  
25 a minor nature such as mild dermatitis and mild bronchitis shall  
26 not constitute permanent disability within the meaning of this  
27 definition.

28 "Disability permanent in quality and total in character" means  
29 a physical or neuropsychiatric total permanent impairment  
30 caused by a compensable accident or compensable occupational  
31 disease, where no fundamental or marked improvement in such  
32 condition can be reasonably expected.

33 Factors other than physical and neuropsychiatric impairments  
34 may be considered in the determination of permanent total  
35 disability, where such physical and neuropsychiatric impairments  
36 constitute at least 75% or higher of total disability.

37 "Ridesharing" means the transportation of persons in a motor  
38 vehicle, with a maximum carrying capacity of not more than 15  
39 passengers, including the driver, where such transportation is  
40 incidental to the purpose of the driver. This term shall include  
41 such ridesharing arrangements known as carpools and vanpools.

42 "Medical services, medical treatment, physicians' services and  
43 physicians' treatment" shall include, but not be limited to, the  
44 services which a chiropractor is authorized by law to perform and  
45 which are authorized by an employer pursuant to the provisions of  
46 R.S.34:15-1 et seq.

47 (cf: P.L.1989, c.227, s.1)

48 2. This act shall take effect immediately.

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53 Exempts from workers' compensation certain employees who are  
54 eligible for compensation under federal law.

1 terminate with the time spent traveling to and from a job site or  
2 the authorized operation of a vehicle on business authorized by  
3 the employer. Travel by a policeman, fireman, or a member of a  
4 first aid or rescue squad, in responding to and returning from an  
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*Sponsor's*

STATEMENT

This bill exempts from coverage under the State workers'

1 compensation law, N.J.S.A.34:15-1 et seq., employees who are  
2 eligible under the federal "Longshore and Harbor Workers'  
3 Compensation Act," 33 U.S.C. §901 et seq., for benefits payable  
4 with respect to accidental death or injury, or occupational  
5 disease or infection.

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10 Exempts from workers' compensation certain employees who are  
11 eligible for compensation under federal law.

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ASSEMBLY LABOR COMMITTEE

STATEMENT TO

SENATE, No. 146

STATE OF NEW JERSEY

DATED: May 5, 1994

The Assembly Labor Committee reports favorably Senate, No. 146.

This bill exempts from coverage under the State workers' compensation law, R.S.34:15-1 et seq., employees who are eligible under the federal "Longshore and Harbor Workers' Compensation Act," 33 U.S.C. §901 et seq., for benefits payable with respect to accidental death or injury, or occupational disease or infection.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 146

STATE OF NEW JERSEY

DATED: MARCH 10, 1994

The Senate Commerce Committee reports favorably Senate Bill No. 146.

This bill exempts from coverage under the State workers' compensation law, R.S.34:15-1 et seq., employees who are eligible under the federal "Longshore and Harbor Workers' Compensation Act," 33 U.S.C. §901 et seq., for benefits payable with respect to accidental death or injury, or occupational disease or infection.

This bill was pre-filed for introduction in the 1994 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.