



General Assembly

January Session, 2021

Raised Bill No. 6478

LCO No. 3441



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING WORKERS' COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-308a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) In addition to the compensation benefits provided by section 31-
4 308 for specific loss of a member or use of the function of a member of
5 the body, or any personal injury covered by this chapter, the
6 commissioner, after such payments provided by said section 31-308
7 have been paid for the period set forth in said section, may award
8 additional compensation benefits for such partial permanent disability
9 equal to seventy-five per cent of the difference between the wages
10 currently earned by an employee in a position comparable to the
11 position held by such injured employee prior to his injury, after such
12 wages have been reduced by any deduction for federal or state taxes, or
13 both, and for the federal Insurance Contributions Act in accordance with
14 section 31-310, and the weekly amount which such employee will
15 probably be able to earn thereafter, after such amount has been reduced
16 by any deduction for federal or state taxes, or both, and for the federal

17 Insurance Contributions Act in accordance with section 31-310, to be
18 determined by the commissioner based upon the nature and extent of
19 the injury, the training, education and experience of the employee, the
20 availability of work for persons with such physical condition and at the
21 employee's age, but not more than one hundred per cent, raised to the
22 next even dollar, of the average weekly earnings of production and
23 related workers in manufacturing in the state, as determined in
24 accordance with the provisions of section 31-309. If evidence of exact
25 loss of earnings is not available, such loss may be computed from the
26 proportionate loss of physical ability or earning power caused by the
27 injury. The duration of such additional compensation shall be
28 determined upon a similar basis by the commissioner, but in no event
29 shall the duration of such additional compensation exceed [the lesser of
30 (1) the duration of the employee's permanent partial disability benefits,
31 or (2) five hundred twenty weeks] the lesser of (1) five times the
32 duration of the employee's permanent partial disability benefits, or (2)
33 seven hundred eighty weeks. The commissioner shall determine
34 whether the employee's disability is substantial enough to allow for the
35 award of such benefits past the original duration of the employee's
36 permanent partial disability benefits. Additional benefits provided
37 under this section shall be available only to employees who are willing
38 and able to perform work in this state.

39 (b) Notwithstanding the provisions of subsection (a) of this section,
40 additional benefits provided under this section shall be available only
41 when the nature of the injury and its effect on the earning capacity of an
42 employee warrant additional compensation.

43 Sec. 2. Section 31-290a of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective from passage*):

45 (a) No employer who is subject to the provisions of this chapter shall;
46 (1) [discharge] Discharge, or cause to be discharged, or in any manner
47 discipline or discriminate against any employee because the employee
48 has filed a claim for workers' compensation benefits or otherwise
49 exercised the rights afforded to him pursuant to the provisions of this

50 chapter, or (2) deliberately misinform or otherwise deliberately
51 dissuade an employee from filing a claim for workers' compensation
52 benefits.

53 (b) Any employee who is so discharged, disciplined or discriminated
54 against or has been deliberately misinformed or dissuaded from filing a
55 claim for workers' compensation benefits may either: (1) Bring a civil
56 action in the superior court for the judicial district where the employer
57 has its principal office for the reinstatement of his previous job, payment
58 of back wages and reestablishment of employee benefits to which he
59 would have otherwise been entitled if he had not been discriminated
60 against or discharged and any other damages caused by such
61 discrimination or discharge. The court may also award punitive
62 damages. Any employee who prevails in such a civil action shall be
63 awarded reasonable attorney's fees and costs to be taxed by the court;
64 or (2) file a complaint with the chairman of the Workers' Compensation
65 Commission alleging violation of the provisions of subsection (a) of this
66 section. Upon receipt of any such complaint, the chairman shall select a
67 commissioner to hear the complaint, provided any commissioner who
68 has previously rendered any decision concerning the claim shall be
69 excluded. The hearing shall be held in the workers' compensation
70 district where the employer has its principal office. After the hearing,
71 the commissioner shall send each party a written copy of his decision.
72 The commissioner may award the employee the reinstatement of his
73 previous job, payment of back wages and reestablishment of employee
74 benefits to which he otherwise would have been eligible if he had not
75 been discriminated against or discharged. Any employee who prevails
76 in such a complaint shall be awarded reasonable attorney's fees. Any
77 party aggrieved by the decision of the commissioner may appeal the
78 decision to the Appellate Court.

79 Sec. 3. (NEW) (*Effective from passage*) (a) For purposes of adjudication
80 of claims for payment of benefits under the provisions of chapter 568 of
81 the general statutes, when there is a dispute regarding whether a request
82 for medical, surgical and hospital services, nursing, medicines and
83 mechanical and surgical aids is reasonable or necessary, the employer

84 or insurer shall file a notice of controversy. A copy of the notice of
85 controversy shall be sent to the originator of the request. A health care
86 provider, employee or other interested party shall be entitled to file a
87 petition by requesting a hearing regarding payment of medical and
88 related services for determination of any such dispute.

89 (b) Payment of a medical bill shall not be considered an admission by
90 the employer or the insurer as to the reasonableness of subsequent
91 medical bills. The provisions of this subsection shall not affect the
92 applicability of any notice provision of section 31-294c of the general
93 statutes.

94 Sec. 4. (NEW) (*Effective from passage*) (a) Understanding that COVID-
95 19 is an occupational disease, for the purpose of adjudication of claims
96 for payment of benefits under the provisions of chapter 568 of the
97 general statutes, an employee who was unable to work at any time
98 during the time period of the public health and civil preparedness
99 emergency declared by the Governor, during any extension of such time
100 period, and during any new public health and civil preparedness
101 emergency declared by the Governor as a result of a COVID-19 outbreak
102 in this state due to a diagnosis of COVID-19, or due to symptoms that
103 were later diagnosed as COVID-19, shall be presumed to have
104 contracted the COVID-19 virus as an occupational disease arising out of
105 and in the course of employment, provided (1) the contraction of
106 COVID-19 by such employee shall be confirmed by a positive laboratory
107 test or, if a laboratory test was not available for the employee, as
108 diagnosed and documented by the employee's licensed physician,
109 licensed physician's assistant or licensed advanced practice registered
110 nurse, based on the employee's symptoms; and (2) a copy of the positive
111 laboratory test or the written documentation of the physician's,
112 physician assistant's or advanced practice registered nurse's diagnosis
113 shall be provided to the employer or insurer.

114 (b) The provisions of subsection (a) of this section shall not apply to
115 an employee who, during the fourteen consecutive days immediately
116 preceding the date of injury: (1) Was employed in a capacity where he

117 or she worked solely from home and did not have physical interaction
118 with other employees or work-related supplies or materials of the
119 employer, or (2) was the recipient of an individualized written offer or
120 directive from his or her employer to work solely from home, but
121 otherwise chose to work at a work site of the employer.

122 (c) Notwithstanding the definition for "occupational disease" as
123 defined in section 31-396 of the general statutes, COVID-19 shall be
124 considered an occupational disease for any worker who was diagnosed
125 with COVID-19 in accordance with subsection (a) of this section.

126 (d) The presumption in subsection (a) of this section shall only be
127 rebutted if the employer or insurer can clearly demonstrate by a
128 preponderance of the evidence that the employment of the individual
129 was not a direct cause of the occupational disease. The employer or the
130 insurer, within ten days of filing the notice of intention to contest
131 employee's rights to compensation benefits, shall provide evidence to
132 rebut the presumption in subsection (a) of this section. If a commissioner
133 finds that such presumption has been rebutted, such commissioner shall
134 decide the claim on its merits, in accordance with established practices
135 of causation. For purposes of this section, an employee's preexisting
136 condition shall have no bearing on the merits of a claim, both with
137 regard to approving a claim and continuing benefits once they have
138 been awarded.

139 (e) For purposes of this section, the date of injury for an employee
140 who has contracted COVID-19 shall be the date that the employee was
141 unable to work or died due to a diagnosis of COVID-19 or due to
142 symptoms that were later diagnosed as COVID-19, whichever occurred
143 first.

144 (f) Beginning on July 1, 2021, and ending on January 1, 2023, the
145 Workers' Compensation Commission shall provide a detailed report on
146 the first business day of each month on COVID-19 workers'
147 compensation claims and shall provide such reports to the joint
148 standing committees of the General Assembly having cognizance of

149 matters relating to labor and insurance. Such monthly reports shall
150 contain: (1) The number of total COVID-19 workers' compensation
151 claims filed since May 10, 2020, (2) the number of record-only claims
152 filed by hospitals, nursing homes, municipalities and other employers,
153 listed by employer name, (3) the number of COVID-19 workers'
154 compensation cases filed by state employees in each agency, (4) the
155 number of such claims contested by each individual employer,
156 including state agencies, third-party administrators or insurance
157 carriers by client, (5) the reasons cited by each employer, including state
158 agencies, third-party administrators or insurance carriers by client for
159 contesting such claims, (6) the number of claims that have received a
160 hearing by the Workers' Compensation Commission, (7) the number of:
161 (A) Rulings by the Workers' Compensation Commission regarding such
162 claims that have been appealed, (B) approved voluntary agreements, (C)
163 finding and awards, (D) finding and dismissals, (E) petitions for review,
164 (F) stipulations, (8) the average time it takes to schedule an initial
165 hearing once it has been requested, and (9) the average time it takes to
166 adjudicate contested COVID-19 workers' compensation claims.
167 Employers, including state agencies, third-party administrators and
168 insurance carriers shall comply with all requests from the Workers'
169 Compensation Commission for information required to compile these
170 reports.

171 (g) An employee who has contracted COVID-19 but who is not
172 entitled to the presumption under subsection (a) of this section shall not
173 be precluded from making a claim as provided in chapter 568 of the
174 general statutes.

175 Sec. 5. Subsection (a) of section 31-306 of the general statutes is
176 repealed and the following is substituted in lieu thereof (*Effective from*
177 *passage*):

178 (a) Compensation shall be paid to dependents on account of death
179 resulting from an accident arising out of and in the course of
180 employment or from an occupational disease as follows:

181 (1) [Four] Twenty thousand dollars shall be paid for burial expenses
182 in any case in which the employee died on or after October 1, 1988. On
183 January 1, 2022, and not later than each January first thereafter, the
184 compensation for burial benefits shall be adjusted by the percentage
185 increase between the last complete calendar year and the previous
186 calendar year in the consumer price index for urban wage earners and
187 clerical workers in the northeast urban area of New York-Northern New
188 Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment, as
189 calculated by the United States Department of Labor's Bureau of Labor
190 Statistics. If there is no one wholly or partially dependent upon the
191 deceased employee, the burial expenses [of four thousand dollars] shall
192 be paid to the person who assumes the responsibility of paying the
193 funeral expenses.

194 (2) Twenty thousand dollars shall be paid for burial expenses in any
195 case in which an employee died due to a diagnosis of COVID-19 for
196 dates of injury pursuant to subdivision (3) of this subsection to the
197 effective date of this section.

198 ~~[(2)]~~ (3) To those wholly dependent upon the deceased employee at
199 the date of the deceased employee's injury, a weekly compensation
200 equal to seventy-five per cent of the average weekly earnings of the
201 deceased calculated pursuant to section 31-310, after such earnings have
202 been reduced by any deduction for federal or state taxes, or both, and
203 for the federal Insurance Contributions Act made from such employee's
204 total wages received during the period of calculation of the employee's
205 average weekly wage pursuant to said section 31-310, as of the date of
206 the injury but not more than the maximum weekly compensation rate
207 set forth in section 31-309 for the year in which the injury occurred or
208 less than twenty dollars weekly. (A) The weekly compensation rate of
209 each dependent entitled to receive compensation under this section as a
210 result of death arising from a compensable injury occurring on or after
211 October 1, 1977, shall be adjusted annually as provided in this
212 subdivision as of the following October first, and each subsequent
213 October first, to provide the dependent with a cost-of-living adjustment
214 in the dependent's weekly compensation rate as determined as of the

215 date of the injury under section 31-309. If the maximum weekly
216 compensation rate, as determined under the provisions of said section
217 31-309, to be effective as of any October first following the date of the
218 injury, is greater than the maximum weekly compensation rate
219 prevailing at the date of the injury, the weekly compensation rate which
220 the injured employee was entitled to receive at the date of the injury or
221 October 1, 1990, whichever is later, shall be increased by the percentage
222 of the increase in the maximum weekly compensation rate required by
223 the provisions of said section 31-309 from the date of the injury or
224 October 1, 1990, whichever is later, to such October first. The cost-of-
225 living increases provided under this subdivision shall be paid by the
226 employer without any order or award from the commissioner. The
227 adjustments shall apply to each payment made in the next succeeding
228 twelve-month period commencing with the October first next
229 succeeding the date of the injury. With respect to any dependent
230 receiving benefits on October 1, 1997, with respect to any injury
231 occurring on or after July 1, 1993, and before October 1, 1997, such
232 benefit shall be recalculated to October 1, 1997, as if such benefits had
233 been subject to recalculation annually under this subparagraph. The
234 difference between the amount of any benefits that would have been
235 paid to such dependent if such benefits had been subject to such
236 recalculation and the actual amount of benefits paid during the period
237 between such injury and such recalculation shall be paid to the
238 dependent not later than December 1, 1997, in a lump-sum payment.
239 The employer or its insurer shall be reimbursed by the Second Injury
240 Fund, as provided in section 31-354, for adjustments, including lump-
241 sum payments, payable under this subparagraph for deaths from
242 compensable injuries occurring on or after July 1, 1993, and before
243 October 1, 1997, upon presentation of any vouchers and information
244 that the Treasurer shall require. No claim for payment of retroactive
245 benefits may be made to the Second Injury Fund more than two years
246 after the date on which the employer or its insurer paid such benefits in
247 accordance with this subparagraph. (B) The weekly compensation rate
248 of each dependent entitled to receive compensation under this section
249 as a result of death arising from a compensable injury occurring on or

250 before September 30, 1977, shall be adjusted as of October 1, 1977, and
251 October 1, 1980, and thereafter, as provided in this subdivision to
252 provide the dependent with partial cost-of-living adjustments in the
253 dependent's weekly compensation rate. As of October 1, 1977, the
254 weekly compensation rate paid prior to October 1, 1977, to the
255 dependent shall be increased by twenty-five per cent. The partial cost-
256 of-living adjustment provided under this subdivision shall be paid by
257 the employer without any order or award from the commissioner. In
258 addition, on each October first, the weekly compensation rate of each
259 dependent as of October 1, 1990, shall be increased by the percentage of
260 the increase in the maximum compensation rate over the maximum
261 compensation rate of October 1, 1990, as determined under the
262 provisions of section 31-309 existing on October 1, 1977. The cost of the
263 adjustments shall be paid by the employer or its insurance carrier who
264 shall be reimbursed for such cost from the Second Injury Fund as
265 provided in section 31-354 upon presentation of any vouchers and
266 information that the Treasurer shall require. No claim for payment of
267 retroactive benefits may be made to the Second Injury Fund more than
268 two years after the date on which the employer or its insurance carrier
269 paid such benefits in accordance with this subparagraph.

270 [(3)] (4) If the surviving spouse is the sole presumptive dependent,
271 compensation shall be paid until death or remarriage.

272 [(4)] (5) If there is a presumptive dependent spouse surviving and
273 also one or more presumptive dependent children, all of which children
274 are either children of the surviving spouse or are living with the
275 surviving spouse, the entire compensation shall be paid to the surviving
276 spouse in the same manner and for the same period as if the surviving
277 spouse were the sole dependent. If, however, any of the presumptive
278 dependent children are neither children of the surviving spouse nor
279 living with the surviving spouse, the compensation shall be divided into
280 as many parts as there are presumptive dependents. The shares of any
281 children having a presumptive dependent parent shall be added to the
282 share of the parent and shall be paid to the parent. The share of any
283 dependent child not having a surviving dependent parent shall be paid

284 to the father or mother of the child with whom the child may be living,
285 or to the legal guardian of the child, or to any other person, for the
286 benefit of the child, as the commissioner may direct.

287 ~~[(5)]~~ (6) If the compensation being paid to the surviving presumptive
288 dependent spouse terminates for any reason, or if there is no surviving
289 presumptive dependent spouse at the time of the death of the employee,
290 but there is at either time one or more presumptive dependent children,
291 the compensation shall be paid to the children as a class, each child
292 sharing equally with the others. Each child shall receive compensation
293 until the child reaches the age of eighteen or dies before reaching age
294 eighteen, provided the child shall continue to receive compensation up
295 to the attainment of the age of twenty-two if unmarried and a full-time
296 student, except any child who has attained the age of twenty-two while
297 a full-time student but has not completed the requirements for, or
298 received, a degree from a postsecondary educational institution shall be
299 deemed not to have attained age twenty-two until the first day of the
300 first month following the end of the quarter or semester in which the
301 child is enrolled at the time, or if the child is not enrolled in a quarter or
302 semester system, until the first day of the first month following the
303 completion of the course in which the child is enrolled or until the first
304 day of the third month beginning after such time, whichever occurs first.
305 When a child's participation ceases, such child's share shall be divided
306 among the remaining eligible dependent children, provided if any child,
307 when the child reaches the age of eighteen years, is physically or
308 mentally incapacitated from earning, the child's right to compensation
309 shall not terminate but shall continue for the full period of incapacity.

310 ~~[(6)]~~ (7) In all cases where there are no presumptive dependents, but
311 where there are one or more persons wholly dependent in fact, the
312 compensation in case of death shall be divided according to the relative
313 degree of their dependence. Compensation payable under this
314 subdivision shall be paid for not more than three hundred and twelve
315 weeks from the date of the death of the employee. The compensation, if
316 paid to those wholly dependent in fact, shall be paid at the full
317 compensation rate. The compensation, if paid to those partially

318 dependent in fact upon the deceased employee as of the date of the
319 injury, shall not, in total, be more than the full compensation rate nor
320 less than twenty dollars weekly, nor, if the average weekly sum
321 contributed by the deceased at the date of the injury to those partially
322 dependent in fact is more than twenty dollars weekly, not more than the
323 sum so contributed.

324 [(7)] (8) When the sole presumptive dependents are, at the time of the
325 injury, nonresident aliens and the deceased has in this state some person
326 or persons who are dependent in fact, the commissioner may in the
327 commissioner's discretion equitably apportion the sums payable as
328 compensation to the dependents.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-308a
Sec. 2	<i>from passage</i>	31-290a
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	31-306(a)

Statement of Purpose:

To address various issues concerning workers' compensation.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]