



General Assembly

Substitute Bill No. 5161

February Session, 2000

An Act Concerning Lost And Replacement Wages For Injured Employees.

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 Section 31-308a of the general statutes is repealed and the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:

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] such employee's
12 injury, after such wages have been reduced by any deduction for
13 federal or state taxes, or both, and for the federal Insurance
14 Contributions Act in accordance with section 31-310, and the weekly
15 amount [which] that such employee will probably be able to earn
16 thereafter, after such amount has been reduced by any deduction for
17 federal or state taxes, or both, and for the federal Insurance
18 Contributions Act in accordance with section 31-310, to be determined
19 by the commissioner based upon the nature and extent of the injury,
20 the training, education and experience of the employee, the availability

21 of work for persons with such physical condition and at the
22 employee's age, but not more than one hundred per cent, raised to the
23 next even dollar, of the average weekly earnings of production and
24 related workers in manufacturing in the state, as determined in
25 accordance with the provisions of section 31-309. If evidence of exact
26 loss of earnings is not available, such loss may be computed from the
27 proportionate loss of physical ability or earning power caused by the
28 injury. The commissioner shall determine the duration of such
29 additional compensation [shall be determined] upon a similar basis,
30 [by the commissioner,] but in no event shall the duration of such
31 additional compensation exceed the [lesser] ~~greater~~ of (1) the duration
32 of the employee's permanent partial disability benefits, or (2) [five
33 hundred twenty] ~~two hundred sixty~~ weeks. In each fiscal year
34 commencing on and after July 1, 2000, if the amount of additional
35 compensation under subdivisions (1) and (2) of this subsection for
36 employees receiving benefits for a period exceeding the duration of
37 their permanent partial disability benefits is more than two million
38 dollars, as determined by the Workers' Compensation Commission,
39 the duration of such additional compensation shall not exceed the
40 lesser of (A) the duration of the employees permanent partial disability
41 benefits, or (B) five hundred twenty weeks. Additional benefits
42 provided under this section shall be available only to employees who
43 are willing and able to perform work in this state, and employees who
44 are unable to perform work in this state due to a physical condition
45 documented by a treating physician.

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

50 (c) Notwithstanding the provisions of subsection (a) of this section,
51 in calculating the additional compensation benefits available to an
52 employee who is unable to perform work in this state due to a physical
53 condition documented by a treating physician, the commissioner shall
54 utilize the wages currently earned by an employee in this state in a

55 position comparable to the position held by such injured employee
56 prior to such employee's injury, after such wages have been reduced
57 by any deduction for federal or state taxes, or both, and for the federal
58 Insurance Contributions Act in accordance with section 31-310, and the
59 weekly amount that such injured employee would probably be able to
60 earn in this state thereafter, after such amount has been reduced by
61 any deduction for federal or state taxes, or both, and for the federal
62 Insurance Contributions Act in accordance with section 31-310, to be
63 determined by the commissioner based upon the nature and extent of
64 the injury, the training, education and experience of the injured
65 employee, the availability of work in this state for persons with such
66 physical condition and at the employee's age, but not more than one
67 hundred per cent, raised to the next even dollar, of the average weekly
68 earnings of production and related workers in manufacturing in this
69 state, as determined in accordance with the provisions of section
70 31-309.

71 Sec. 2. This act shall take effect July 1, 2000.

PD Committee Vote: Yea 11 Nay 6 JFS