

**Proposed Substitute  
Bill No. 6878**

LCO No. 4966

**AN ACT CONCERNING WORKERS' COMPENSATION LIABILITY FOR  
INDIVIDUALS RECEIVING SERVICES FROM PERSONAL CARE  
ATTENDANTS.**

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

1 Section 1. Subsection (a) of section 17b-706b of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2015*):

4 (a) Personal care attendants shall not be considered state employees,  
5 except for purposes of chapter 568, and shall be exempt from any and  
6 all provisions of the general statutes creating rights, obligations,  
7 privileges or immunities to state employees as a result of or incident to  
8 their state service other than those provided under said chapter.

9 Sec. 2. (NEW) (*Effective October 1, 2015*) Notwithstanding any other  
10 provision of the general statutes, any personal care attendant, as  
11 defined in section 17b-706 of the general statutes, shall be deemed a  
12 state employee for purposes of chapter 568 of the general statutes.

13 Sec. 3. (NEW) (*Effective October 1, 2015*) The Commissioners of  
14 Developmental Services and Social Services shall collaborate with the  
15 Commissioner of Administrative Services and the chairman of the  
16 Workers' Compensation Commission to provide workers'  
17 compensation benefits for personal care attendants, as defined in

18 section 17b-706 of the general statutes. The cost for the provision of  
19 such benefits shall be a separate appropriation of the General  
20 Assembly and shall not reduce services or affect consumers served by  
21 such personal care attendants.

22 Sec. 4. Section 31-275 of the general statutes is repealed and the  
23 following is substituted in lieu thereof (*Effective October 1, 2015*):

24 As used in this chapter, unless the context otherwise provides:

25 (1) "Arising out of and in the course of his employment" means an  
26 accidental injury happening to an employee or an occupational disease  
27 of an employee originating while the employee has been engaged in  
28 the line of the employee's duty in the business or affairs of the  
29 employer upon the employer's premises, or while engaged elsewhere  
30 upon the employer's business or affairs by the direction, express or  
31 implied, of the employer, provided:

32 (A) (i) For a police officer or firefighter, "in the course of his  
33 employment" encompasses such individual's departure from such  
34 individual's place of abode to duty, such individual's duty, and the  
35 return to such individual's place of abode after duty;

36 (ii) For an employee of the Department of Correction, (I) when  
37 responding to a direct order to appear at his or her work assignment  
38 under circumstances in which nonessential employees are excused  
39 from working, or (II) following two or more mandatory overtime work  
40 shifts on consecutive days, "in the course of his employment"  
41 encompasses such individual's departure from such individual's place  
42 of abode directly to duty, such individual's duty, and the return  
43 directly to such individual's place of abode after duty;

44 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
45 subparagraph, the dependents of any deceased employee of the  
46 Department of Correction who was injured in the course of his  
47 employment, as defined in this subparagraph, on or after July 1, 2000,  
48 and who died not later than July 15, 2000, shall be paid compensation

49 on account of the death, in accordance with the provisions of section  
50 31-306, retroactively to the date of the employee's death. The cost of the  
51 payment shall be paid by the employer or its insurance carrier which  
52 shall be reimbursed for such cost from the Second Injury Fund as  
53 provided in section 31-354 upon presentation of any vouchers and  
54 information that the Treasurer may require;

55 (B) A personal injury shall not be deemed to arise out of the  
56 employment unless causally traceable to the employment other than  
57 through weakened resistance or lowered vitality;

58 (C) In the case of an accidental injury, a disability or a death due to  
59 the use of alcohol or narcotic drugs shall not be construed to be a  
60 compensable injury;

61 (D) For aggravation of a preexisting disease, compensation shall be  
62 allowed only for that proportion of the disability or death due to the  
63 aggravation of the preexisting disease as may be reasonably attributed  
64 to the injury upon which the claim is based;

65 (E) A personal injury shall not be deemed to arise out of the  
66 employment if the injury is sustained: (i) At the employee's place of  
67 abode, and (ii) while the employee is engaged in a preliminary act or  
68 acts in preparation for work unless such act or acts are undertaken at  
69 the express direction or request of the employer;

70 (F) For purposes of subparagraph (C) of this subdivision, "narcotic  
71 drugs" means all controlled substances, as designated by the  
72 Commissioner of Consumer Protection pursuant to subsection (c) of  
73 section 21a-243, but does not include drugs prescribed in the course of  
74 medical treatment or in a program of research operated under the  
75 direction of a physician or pharmacologist. For purposes of  
76 subparagraph (E) of this subdivision, "place of abode" includes the  
77 inside of the residential structure, the garage, the common hallways,  
78 stairways, driveways, walkways and the yard;

79 (G) The Workers' Compensation Commission shall adopt

80 regulations, in accordance with the provisions of chapter 54, to  
81 implement the provisions of this section and shall define the terms "a  
82 preliminary act", "acts in preparation for work", "departure from place  
83 of abode directly to duty" and "return directly to place of abode after  
84 duty" on or before January 1, 2006.

85 (2) "Commission" means the Workers' Compensation Commission.

86 (3) "Commissioner" means the compensation commissioner who has  
87 jurisdiction in the matter referred to in the context.

88 (4) "Compensation" means benefits or payments mandated by the  
89 provisions of this chapter, including, but not limited to, indemnity,  
90 medical and surgical aid or hospital and nursing service required  
91 under section 31-294d and any type of payment for disability, whether  
92 for total or partial disability of a permanent or temporary nature, death  
93 benefit, funeral expense, payments made under the provisions of  
94 section 31-284b, 31-293a or 31-310, or any adjustment in benefits or  
95 payments required by this chapter.

96 (5) "Date of the injury" means, for an occupational disease, the date  
97 of total or partial incapacity to work as a result of such disease.

98 (6) "Dependent" means a member of the injured employee's family  
99 or next of kin who was wholly or partly dependent upon the earnings  
100 of the employee at the time of the injury.

101 (7) "Dependent in fact" means a person determined to be a  
102 dependent of an injured employee, in any case where there is no  
103 presumptive dependent, in accordance with the facts existing at the  
104 date of the injury.

105 (8) "Disfigurement" means impairment of or injury to the beauty,  
106 symmetry or appearance of a person that renders the person unsightly,  
107 misshapen or imperfect, or deforms the person in some manner, or  
108 otherwise causes a detrimental change in the external form of the  
109 person.

- 110 (9) (A) "Employee" means any person who:
- 111 (i) Has entered into or works under any contract of service or  
112 apprenticeship with an employer, whether the contract contemplated  
113 the performance of duties within or without the state;
- 114 (ii) Is a sole proprietor or business partner who accepts the  
115 provisions of this chapter in accordance with subdivision (10) of this  
116 section;
- 117 (iii) Is elected to serve as a member of the General Assembly of this  
118 state;
- 119 (iv) Is a salaried officer or paid member of any police department or  
120 fire department;
- 121 (v) Is a volunteer police officer, whether the officer is designated as  
122 special or auxiliary, upon vote of the legislative body of the town, city  
123 or borough in which the officer serves;
- 124 (vi) Is an elected or appointed official or agent of any town, city or  
125 borough in the state, upon vote of the proper authority of the town,  
126 city or borough, including the elected or appointed official or agent,  
127 irrespective of the manner in which he or she is appointed or  
128 employed. Nothing in this subdivision shall be construed as affecting  
129 any existing rights as to pensions which such persons or their  
130 dependents had on July 1, 1927, or as preventing any existing custom  
131 of paying the full salary of any such person during disability due to  
132 injury arising out of and in the course of his or her employment;
- 133 (vii) Is a member of the armed forces of the state while in the  
134 performance of military duty, whether paid or unpaid for such  
135 military duty, in accordance with the provisions of section 27-17, 27-18  
136 or 27-61; or
- 137 (viii) Is elected to serve as a probate judge for a probate district  
138 established in section 45a-2.

139 (B) "Employee" shall not be construed to include:

140 (i) Any person to whom articles or material are given to be treated  
141 in any way on premises not under the control or management of the  
142 person who gave them out;

143 (ii) One whose employment is of a casual nature and who is  
144 employed otherwise than for the purposes of the employer's trade or  
145 business;

146 (iii) A member of the employer's family dwelling in his house; but,  
147 if, in any contract of insurance, the wages or salary of a member of the  
148 employer's family dwelling in his house is included in the payroll on  
149 which the premium is based, then that person shall, if he sustains an  
150 injury arising out of and in the course of his employment, be deemed  
151 an employee and compensated in accordance with the provisions of  
152 this chapter;

153 (iv) Any person other than a personal care attendant, as defined in  
154 section 17b-706, engaged in any type of service in or about a private  
155 dwelling provided he is not regularly employed by the owner or  
156 occupier over twenty-six hours per week;

157 (v) An employee of a corporation who is a corporate officer and  
158 who elects to be excluded from coverage under this chapter by notice  
159 in writing to his employer and to the commissioner; or

160 (vi) Any person who is not a resident of this state but is injured in  
161 this state during the course of his employment, unless such person (I)  
162 works for an employer who has a place of employment or a business  
163 facility located in this state at which such person spends at least fifty  
164 per cent of his employment time, or (II) works for an employer  
165 pursuant to an employment contract to be performed primarily in this  
166 state.

167 (10) "Employer" means any person, corporation, limited liability  
168 company, firm, partnership, voluntary association, joint stock

169 association, the state and any public corporation within the state using  
170 the services of one or more employees for pay, or the legal  
171 representative of any such employer, but all contracts of employment  
172 between an employer employing persons excluded from the definition  
173 of employee and any such employee shall be conclusively presumed to  
174 include the following mutual agreements between employer and  
175 employee: (A) That the employer may accept and become bound by  
176 the provisions of this chapter by immediately complying with section  
177 31-284; (B) that, if the employer accepts the provisions of this chapter,  
178 the employee shall then be deemed to accept and be bound by such  
179 provisions unless the employer neglects or refuses to furnish  
180 immediately to the employee, on his written request, evidence of  
181 compliance with section 31-284 in the form of a certificate from the  
182 commissioner, the Insurance Commissioner or the insurer, as the case  
183 may be; (C) that the employee may, at any time, withdraw his  
184 acceptance of, and become released from, the provisions of this chapter  
185 by giving written or printed notice of his withdrawal to the  
186 commissioner and to the employer, and the withdrawal shall take  
187 effect immediately from the time of its service on the commissioner  
188 and the employer; and (D) that the employer may withdraw his  
189 acceptance and the acceptance of the employee by filing a written or  
190 printed notice of his withdrawal with the commissioner and with the  
191 employee, and the withdrawal shall take effect immediately from the  
192 time of its service on the commissioner and the employee. The notices  
193 of acceptance and withdrawal to be given by an employer employing  
194 persons excluded from the definition of employee and the notice of  
195 withdrawal to be given by the employee, as provided in this  
196 subdivision, shall be served upon the commissioner, employer or  
197 employee, either by personal presentation or by registered or certified  
198 mail. In determining the number of employees employed by an  
199 individual, the employees of a partnership of which he is a member  
200 shall not be included. A person who is the sole proprietor of a business  
201 may accept the provisions of this chapter by notifying the  
202 commissioner, in writing, of his intent to do so. If such person accepts  
203 the provisions of this chapter he shall be considered to be an employer

204 and shall insure his full liability in accordance with subdivision (2) of  
205 subsection (b) of section 31-284. Such person may withdraw his  
206 acceptance by giving notice of his withdrawal, in writing, to the  
207 commissioner. Any person who is a partner in a business shall be  
208 deemed to have accepted the provisions of this chapter and shall  
209 insure his full liability in accordance with subdivision (2) of subsection  
210 (b) of section 31-284, unless the partnership elects to be excluded from  
211 the provisions of this chapter by notice, in writing and by signed  
212 agreement of each partner, to the commissioner.

213 (11) "Full-time student" means any student enrolled for at least  
214 seventy-five per cent of a full-time student load at a postsecondary  
215 educational institution which has been approved by a state-recognized  
216 or [federally-recognized] federally recognized accrediting agency or  
217 body. "Full-time student load" means the number of credit hours,  
218 quarter credits or academic units required for a degree from such  
219 institution, divided by the number of academic terms needed to  
220 complete the degree.

221 (12) "Medical and surgical aid or hospital and nursing service",  
222 when requested by an injured employee and approved by the  
223 commissioner, includes treatment by prayer or spiritual means  
224 through the application or use of the principles, tenets or teachings of  
225 any established church without the use of any drug or material  
226 remedy, provided sanitary and quarantine regulations are complied  
227 with, and provided all those ministering to the injured employee are  
228 bona fide members of such church.

229 (13) "Member" includes all parts of the human body referred to in  
230 subsection (b) of section 31-308.

231 (14) "Nursing" means the practice of nursing as defined in  
232 subsection (a) of section 20-87a, and "nurse" means a person engaged  
233 in such practice.

234 (15) "Occupational disease" includes any disease peculiar to the  
235 occupation in which the employee was engaged and due to causes in

236 excess of the ordinary hazards of employment as such, and includes  
237 any disease due to or attributable to exposure to or contact with any  
238 radioactive material by an employee in the course of his employment.

239 (16) (A) "Personal injury" or "injury" includes, in addition to  
240 accidental injury that may be definitely located as to the time when  
241 and the place where the accident occurred, an injury to an employee  
242 that is causally connected with the employee's employment and is the  
243 direct result of repetitive trauma or repetitive acts incident to such  
244 employment, and occupational disease.

245 (B) "Personal injury" or "injury" shall not be construed to include:

246 (i) An injury to an employee that results from the employee's  
247 voluntary participation in any activity the major purpose of which is  
248 social or recreational, including, but not limited to, athletic events,  
249 parties and picnics, whether or not the employer pays some or all of  
250 the cost of such activity;

251 (ii) A mental or emotional impairment, unless such impairment (I)  
252 arises from a physical injury or occupational disease, (II) in the case of  
253 a police officer, arises from such police officer's use of deadly force or  
254 subjection to deadly force in the line of duty, regardless of whether  
255 such police officer is physically injured, provided such police officer is  
256 the subject of an attempt by another person to cause such police officer  
257 serious physical injury or death through the use of deadly force, and  
258 such police officer reasonably believes such police officer to be the  
259 subject of such an attempt, or (III) in the case of a firefighter, is  
260 diagnosed as post-traumatic stress disorder by a licensed and board  
261 certified mental health professional, determined by such professional  
262 to be originating from the firefighter witnessing the death of another  
263 firefighter while engaged in the line of duty and not subject to any  
264 other exclusion in this section. As used in this clause, "police officer"  
265 means a member of the Division of State Police within the Department  
266 of Emergency Services and Public Protection, an organized local police  
267 department or a municipal constabulary, "firefighter" means a

268 uniformed member of a municipal paid or volunteer fire department,  
269 and "in the line of duty" means any action that a police officer or  
270 firefighter is obligated or authorized by law, rule, regulation or written  
271 condition of employment service to perform, or for which the police  
272 officer or firefighter is compensated by the public entity such officer  
273 serves;

274 (iii) A mental or emotional impairment that results from a personnel  
275 action, including, but not limited to, a transfer, promotion, demotion  
276 or termination; or

277 (iv) Notwithstanding the provisions of subparagraph (B)(i) of this  
278 subdivision, "personal injury" or "injury" includes injuries to  
279 employees of local or regional boards of education resulting from  
280 participation in a school-sponsored activity but does not include any  
281 injury incurred while going to or from such activity. As used in this  
282 clause, "school-sponsored activity" means any activity sponsored,  
283 recognized or authorized by a board of education and includes  
284 activities conducted on or off school property and "participation"  
285 means acting as a chaperone, advisor, supervisor or instructor at the  
286 request of an administrator with supervisory authority over the  
287 employee.

288 (17) "Physician" includes any person licensed and authorized to  
289 practice a healing art, as defined in section 20-1, and licensed under the  
290 provisions of chapters 370, 372 and 373 to practice in this state.

291 (18) "Podiatrist" means any practitioner of podiatry, as defined in  
292 section 20-50, and duly licensed under the provisions of chapter 375 to  
293 practice in this state.

294 (19) "Presumptive dependents" means the following persons who  
295 are conclusively presumed to be wholly dependent for support upon a  
296 deceased employee: (A) A wife upon a husband with whom she lives  
297 at the time of his injury or from whom she receives support regularly;  
298 (B) a husband upon a wife with whom he lives at the time of her injury  
299 or from whom he receives support regularly; (C) any child under the

300 age of eighteen, or over the age of eighteen but physically or mentally  
301 incapacitated from earning, upon the parent with whom he is living or  
302 from whom he is receiving support regularly, at the time of the injury  
303 of the parent; (D) any unmarried child who has attained the age of  
304 eighteen but has not attained the age of twenty-two and who is a full-  
305 time student, upon the parent with whom he is living or from whom  
306 he is receiving support regularly, provided, any child who has attained  
307 the age of twenty-two while a full-time student but has not completed  
308 the requirements for, or received, a degree from a postsecondary  
309 educational institution shall be deemed not to have attained the age of  
310 twenty-two until the first day of the first month following the end of  
311 the quarter or semester in which he is enrolled at the time, or if he is  
312 not enrolled in a quarter or semester system, until the first day of the  
313 first month following the completion of the course in which he is  
314 enrolled or until the first day of the third month beginning after such  
315 time, whichever occurs first.

316 (20) "Previous disability" means an employee's preexisting condition  
317 caused by the total or partial loss of, or loss of use of, one hand, one  
318 arm, one foot or one eye resulting from accidental injury, disease or  
319 congenital causes, or other permanent physical impairment.

320 (21) "Scar" means the mark left on the skin after the healing of a  
321 wound or sore, or any mark, damage or lasting effect resulting from  
322 past injury.

323 (22) "Second disability" means a disability arising out of a second  
324 injury.

325 (23) "Second injury" means an injury, incurred by accident,  
326 repetitive trauma, repetitive acts or disease arising out of and in the  
327 course of employment, to an employee with a previous disability.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	17b-706b(a)
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>October 1, 2015</i>	New section
Sec. 4	<i>October 1, 2015</i>	31-275