

1274--A

2015-2016 Regular Sessions

I N   S E N A T E

January 9, 2015

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Introduced by Sens. PERALTA, COMRIE, HAMILTON, LATIMER, PANEPINTO, PARK-  
ER, PERKINS -- read twice and ordered printed, and when printed to be  
committed to the Committee on Labor -- recommitted to the Committee on  
Labor in accordance with Senate Rule 6, sec. 8 -- committee  
discharged, bill amended, ordered reprinted as amended and recommitted  
to said committee

AN ACT to amend the workers' compensation law, in relation to permanent  
total disability

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 15 of the workers' compensation  
2     law, as amended by chapter 675 of the laws of 1977, is amended to read  
3     as follows:  
4     1. Permanent total disability. In case of total disability adjudged to  
5     be permanent sixty-six and two-thirds per centum of the average weekly  
6     wages shall be paid to the employee during the continuance of such total  
7     disability. Loss of both hands, or both arms, or both feet, or both  
8     legs, or both eyes, or of any two thereof shall, in the absence of  
9     conclusive proof to the contrary, constitute permanent total disability.  
10    In all other cases permanent total disability shall be determined in  
11    accordance with the facts.     WHERE, HOWEVER, THE EMPLOYEE HAS BEEN  
12    APPROVED FOR FEDERAL SOCIAL SECURITY DISABILITY BENEFITS SUBSTANTIALLY  
13    AS A RESULT OF A COMPENSABLE INJURY OR ILLNESS, IT SHALL BE PRESUMED, IN  
14    THE ABSENCE OF SUBSTANTIAL EVIDENCE TO THE CONTRARY, THAT HE OR SHE IS  
15    PERMANENTLY TOTALLY DISABLED. Notwithstanding any other provision of  
16    this chapter, an injured employee disabled due to the loss or total loss  
17    of use of both eyes, or both hands, or both arms, or both feet, or both  
18    legs, or of any two thereof shall not suffer any diminution of his OR  
19    HER compensation by engaging in business or employment provided his OR  
20    HER earnings or wages, when combined with his OR HER compensation, shall  
21    not be in excess of the wage base on which the maximum weekly compen-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 sation benefit is computed under the law in effect at time of such earn-  
2 ing; further provided, that if the combination exceeds such wage base,  
3 the compensation shall be diminished to an amount which, together with  
4 his OR HER earnings or wages, shall equal the wage base; and further  
5 provided that the application of this subdivision shall not result in  
6 reduction of compensation which an injured employee who is disabled due  
7 to the loss or total loss of use of both eyes, or both hands, or both  
8 arms, or both feet, or both legs or of any two thereof, would otherwise  
9 be entitled to under any other provision of this section.  
10 S 2. This act shall take effect immediately.