

# STATE OF NEW YORK

4839

2017-2018 Regular Sessions

## IN SENATE

March 2, 2017

Introduced by Sen. AKSHAR -- read twice and ordered printed, and when printed to be committed to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to reporting by the workers' compensation board and appointments to the advisory board

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 1 and 4 of section 35 of the workers' compen-  
2 sation law, as added by chapter 6 of the laws of 2007 and the opening  
3 paragraph of subdivision 4 as further amended by section 104 of part A  
4 of chapter 62 of the laws of 2011, are amended and a new subdivision 5  
5 is added to read as follows:

6 1. Return to work. (a) The [~~commissioner of labor will~~] workers'  
7 compensation board shall issue a report to the governor, the speaker of  
8 the assembly, the majority leader of the senate, and the chairs of the  
9 labor, ways and means and finance committees of the assembly and senate  
10 on or before December first, two thousand [~~seven~~] seventeen, making  
11 recommendations as to how to assure that workers categorized by the  
12 board as permanently partially disabled return to gainful employment to  
13 the greatest extent practicable. [~~Such commissioner~~] The board will  
14 consider administrative and legislative remedies, and shall include  
15 estimates of cost in the report. The report shall examine best prac-  
16 tices and the laws of other jurisdictions, as well as any relevant  
17 programs authorized by New York law. The report shall additionally exam-  
18 ine return to work practices as implemented by carriers, the state  
19 insurance fund, employers, and the board. It shall also examine the  
20 relationship of vocational rehabilitation to ultimate return to work.

21 (b) The [~~commissioner of labor will~~] workers' compensation board shall  
22 be assisted by an advisory council constituted of [~~six~~] seven persons  
23 appointed by the governor as follows:

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

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1 (i) a representative of organized labor appointed upon recommendation  
2 of the New York State American Federation of Labor-Congress of Indus-  
3 trial Organizations;

4 (ii) a representative of the business community appointed upon recom-  
5 mendation of the Business Council of New York State, Incorporated;

6 (iii) one person upon recommendation of the majority leader of the  
7 senate;

8 (iv) one person upon recommendation of the speaker of the assembly;  
9 [~~and~~]

10 (v) two other persons in the governor's discretion[~~+~~]; and

11 (vi) the commissioner of labor or his or her designee.

12 4. Annual safety net reporting. The [~~commissioner of labor~~] workers'  
13 compensation board, in conjunction with the [~~board~~] department of labor  
14 and the superintendent of financial services, shall track all claimants  
15 who have been awarded permanent partial disability status and report  
16 annually on [~~December first~~] March ninth, beginning in two thousand  
17 [~~eight~~] seventeen, to the governor, the speaker of the assembly, the  
18 majority leader of the senate, and the chairs of the labor, ways and  
19 means and finance committees of the assembly and senate:

20 (i) The number of said claimants who have:

21 (1) returned to gainful employment;

22 (2) been recategorized as being totally industrially disabled;

23 (3) remain subject to duration limitations set forth in paragraph w of  
24 subdivision three of section fifteen of this article; and

25 (4) not returned to work, and whose indemnity payments have expired.

26 (ii) The additional steps the [~~commissioner~~] board contemplates are  
27 necessary to minimize the number of workers who have neither returned to  
28 work nor been recategorized from permanent partial disability.

29 5. Failure to file. Failure to file the report required by subdivision  
30 four of this section shall require the chair and the commissioner of  
31 labor to appear before the senate and assembly committees on labor, at  
32 such committee chair's convenience, to provide information required by  
33 subdivision four of this section.

34 § 2. This act shall take effect immediately.