

# STATE OF NEW YORK

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4839--A

Cal. No. 1315

2017-2018 Regular Sessions

## IN SENATE

March 2, 2017

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Introduced by Sens. AKSHAR, FUNKE -- 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 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the workers' compensation law, in relation to reporting by the workers' compensation board and appointments to the advisory board; and providing for the repeal of such provisions upon expiration thereof

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, subdivision 1 as added by chapter 6 of the laws of 2007 and  
3 subdivision 4 as amended by section 2 of subpart A of part NNN of chap-  
4 ter 59 of the laws of 2017, are amended and a new subdivision 5 is added  
5 to read as follows:  
6 1. Return to work. (a) The [~~commissioner of labor will~~] board shall  
7 issue a report annually in the month of March to the governor, the  
8 speaker of the assembly, the majority leader of the senate, and the  
9 chairs of the labor, ways and means and finance committees of the assem-  
10 bly and senate [~~on or before December first, two thousand seven~~], 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

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

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1 insurance fund, employers, and the board. It shall also examine the  
2 relationship of vocational rehabilitation to ultimate return to work.

3 (b) The [~~commissioner of labor will~~] board shall be assisted by an  
4 advisory council constituted of [~~six~~] seven persons appointed by the  
5 governor as follows:

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

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

11 (iii) one person upon recommendation of the majority leader of the  
12 senate;

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

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

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

17 4. Annual safety net reporting. The board, in conjunction with the  
18 commissioner of labor and the superintendent of financial services,  
19 shall track all claimants who have been awarded permanent partial disa-  
20 bility status and report annually [~~en~~] in the month of December [~~first,~~  
21 ~~beginning in two thousand eight~~], to the governor, the speaker of the  
22 assembly, the majority leader of the senate, and the chairs of the  
23 labor, ways and means and finance committees of the assembly and senate:

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

25 (1) returned to gainful employment;

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

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

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

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

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

38 § 2. This act shall take effect immediately and shall expire and be  
39 deemed repealed five years after such date.