

STATE OF NEW YORK

7726

IN SENATE

February 11, 2020

Introduced by Sen. RAMOS -- 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 authorizing a claimant to request to be reclassified to permanent total disability or total industrial disability where the claimant's loss of wage-earning capacity is greater than fifty percent

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

1 Section 1. Subdivision 3 of section 35 of the workers' compensation
2 law, as amended by section 2 of subpart A of part NNN of chapter 59 of
3 the laws of 2017, is amended to read as follows:

4 3. Extreme hardship redetermination. In cases where the loss of wage-
5 earning capacity is greater than [~~seventy-five~~] fifty percent, a claim-
6 ant may request[~~, within the year prior to the scheduled exhaustion of~~
7 ~~indemnity benefits under paragraph w of subdivision three of section~~
8 ~~fifteen of this article,~~] that the board reclassify the claimant to
9 permanent total disability or total industrial disability due to factors
10 reflecting extreme hardship. For the purposes of this section, extreme
11 hardship means: (a) the injured worker's income from social security
12 disability benefits and disability pension, if applicable, would be less
13 than fifty percent of his or her average weekly wage upon termination of
14 permanent partial disability benefits; or (b) the injured worker will be
15 unable to meet expenses for himself or herself and any dependents upon
16 termination of permanent partial disability benefits; or (c) additional
17 medical, functional or vocational factors arising subsequent to the
18 classification of permanent partial disability have further eroded the
19 injured worker's wage earning capacity; or (d) the injured worker's
20 income would be below the federal poverty guidelines upon termination of
21 permanent partial disability.

22 § 2. This act shall take effect immediately.

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

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