

# STATE OF NEW YORK

391

2023-2024 Regular Sessions

## IN ASSEMBLY

January 9, 2023

Introduced by M. of A. BRONSON, REYES -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law, in relation to eligibility for classification as permanent total disability

The People of the State of New York, represented in Senate and Assembly, 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, or inability to perform the  
9 full range of sedentary work, or approval for federal social security  
10 disability benefits as a result of a compensable accident or occupa-  
11 tional disease shall, in the absence of conclusive proof to the contra-  
12 ry, constitute permanent total disability. In all other cases permanent  
13 total disability shall be determined in accordance with the facts.  
14 Notwithstanding any other provision of this chapter, an injured employee  
15 disabled due to the loss or total loss of use of both eyes, or both  
16 hands, or both arms, or both feet, or both legs, or of any two thereof  
17 shall not suffer any diminution of his compensation by engaging in busi-  
18 ness or employment provided his earnings or wages, when combined with  
19 his compensation, shall not be in excess of the wage base on which the  
20 maximum weekly compensation benefit is computed under the law in effect  
21 at time of such earning; further provided, that if the combination  
22 exceeds such wage base, the compensation shall be diminished to an  
23 amount which, together with his earnings or wages, shall equal the wage  
24 base; and further provided that the application of this subdivision  
25 shall not result in reduction of compensation which an injured employee

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

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1 who is disabled due to the loss or total loss of use of both eyes, or  
2 both hands, or both arms, or both feet, or both legs or of any two ther-  
3 eof, would otherwise be entitled to under any other provision of this  
4 section.

5 For the purposes of this section, inability to perform the  
6 full range of sedentary work shall mean the inability to exert up to ten  
7 pounds of force occasionally or up to one-third of the workday, or the  
8 inability to exert a negligible amount of force frequently to lift,  
9 carry, push, pull, or otherwise move objects, including the home body,  
10 and examples of the inability to perform the full range of sedentary  
11 work shall include but not be limited to the inability to sit for at  
12 least six hours in an eight-hour day and occasionally walk or stand for  
13 no more than two hours in an eight-hour day. In circumstances where the  
14 inability to perform the full range of sedentary work involves the  
15 performance of unskilled sedentary work, related activities of a non-e-  
16 xertional nature such as seeing, hand-manipulation, and understanding,  
17 remembering, and carrying out simple instructions shall be considered.

18 § 2. This act shall take effect immediately and shall apply to inju-  
19 ries subject to the provisions of the workers' compensation law arising  
on and after the effective date of this act.