

STATE OF NEW YORK

3235

2025-2026 Regular Sessions

IN SENATE

January 24, 2025

Introduced by Sens. COONEY, FERNANDEZ, GOUNARDES, SCARCELLA-SPANTON, WEBB -- 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 the weekly benefit of a disabled employee

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "equity in leave act".

3 § 2. Paragraph (b) of subdivision 2 of section 204 of the workers'
4 compensation law, as amended by section 5 of part SS of chapter 54 of
5 the laws of 2016, is amended to read as follows:

6 (b) The weekly benefit which the disabled employee is entitled to
7 receive for disability commencing: (i) on or after January first, two
8 thousand twenty-eight shall be fifty percent of the employee's average
9 weekly wage but shall not exceed fifty percent of the state average
10 weekly wage; (ii) on or after January first, two thousand twenty-nine
11 shall be fifty-five percent of the employee's average weekly wage but
12 shall not exceed fifty-five percent of the state average weekly wage;
13 (iii) on or after January first, two thousand thirty shall be sixty
14 percent of the employee's weekly average wage but shall not exceed sixty
15 percent of the state average weekly wage; and (iv) on or after January
16 first of each succeeding year, shall be sixty-seven percent of the
17 employee's average weekly wage but shall not exceed sixty-seven percent
18 of the state average weekly wage. The weekly benefit which the disabled
19 employee is entitled to receive for disability commencing on or after
20 May first, nineteen hundred eighty-nine and prior to January first, two
21 thousand twenty-eight shall be one-half of the employee's weekly wage,
22 but in no case shall such benefit exceed one hundred seventy dollars;
23 except that if the employee's average weekly wage is less than twenty
24 dollars, the benefit shall be such average weekly wage. The weekly bene-

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

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1 fit which the disabled employee is entitled to receive for disability
2 commencing on or after July first, nineteen hundred eighty-four shall be
3 one-half of the employee's weekly wage, but in no case shall such bene-
4 fit exceed one hundred forty-five dollars; except that if the employee's
5 average weekly wage is less than twenty dollars, the benefit shall be
6 such average weekly wage. The weekly benefit which the disabled employee
7 is entitled to receive for disability commencing on or after July first,
8 nineteen hundred eighty-three and prior to July first, nineteen hundred
9 eighty-four shall be one-half of the employee's average weekly wage, but
10 in no case shall such benefit exceed one hundred thirty-five dollars nor
11 be less than twenty dollars; except that if the employee's average week-
12 ly wage is less than twenty dollars the benefit shall be such average
13 weekly wage. The weekly benefit which the disabled employee is entitled
14 to receive for disability commencing on or after July first, nineteen
15 hundred seventy-four, and prior to July first, nineteen hundred eighty-
16 three, shall be one-half of the employee's average weekly wage, but in
17 no case shall such benefit exceed ninety-five dollars nor be less than
18 twenty dollars; except that if the employee's average weekly wage is
19 less than twenty dollars, the benefit shall be such average weekly wage.
20 The weekly benefit which the disabled employee is entitled to receive
21 for disability commencing on or after July first, nineteen hundred
22 seventy and prior to July first, nineteen hundred seventy-four shall be
23 one-half of the employee's average weekly wage, but in no case shall
24 such benefit exceed seventy-five dollars nor be less than twenty
25 dollars; except that if the employee's average weekly wage is less than
26 twenty dollars the benefit shall be such average weekly wage. For any
27 period of disability less than a full week, the benefits payable shall
28 be calculated by dividing the weekly benefit by the number of the
29 employee's normal work days per week and multiplying the quotient by the
30 number of normal work days in such period of disability. The weekly
31 benefit for a disabled employee who is concurrently eligible for bene-
32 fits in the employment of more than one covered employer shall, within
33 the maximum and minimum herein provided, be one-half of the total of the
34 employee's average weekly wages received from all such covered employ-
35 ers, and shall be allocated in the proportion of their respective aver-
36 age weekly wage payments.

37 § 3. Paragraph (a) of subdivision 3 of section 209 of the workers'
38 compensation law, as amended by section 10 of part SS of chapter 54 of
39 the laws of 2016, is amended to read as follows:

40 (a) Disability benefits. The contribution of each such employee to the
41 cost of disability benefits provided by this article shall be one-half
42 of one per centum of the employee's wages paid [~~to him or her~~] on and
43 after July first, nineteen hundred fifty and prior to January first, two
44 thousand twenty-eight, but not in excess of sixty cents per week. The
45 contribution of each such employee to the cost of employee disability
46 benefits provided by this article shall be one-half of one per centum of
47 the employee's wages paid on and after January first, two thousand twen-
48 ty-eight, but not in excess of two dollars and twenty cents per week.

49 § 4. Section 203-a of the workers' compensation law, as added by
50 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
51 read as follows:

52 § 203-a. [~~Retaliatory~~] Interference and retaliatory action prohibited
53 for disability and family leave. 1. The provisions of section one
54 hundred twenty of this chapter and section two hundred forty-one of this
55 article shall be applicable to disability and family leave.

1 2. It shall be unlawful for any employer to interfere with, restrain,
2 or deny the exercise of, or the attempt to exercise, any right provided
3 under this article, including: (a) failing to comply with the require-
4 ments of section two hundred twenty-nine of this article, such as by
5 failing to provide an employee with the notice of rights required by
6 such section; (b) failing to provide an employee with complete and accu-
7 rate information related to the submission of a claim for disability or
8 family leave benefits, such as by failing to inform the employee that it
9 is the employee's responsibility to submit the completed application
10 materials to the employer's insurance carrier or by failing or refusing
11 to provide the employee with the name of the employer's insurance carri-
12 er and/or the employer's policy number with said insurance carrier; (c)
13 failing to accurately complete and return to the employee the disability
14 or family leave application paperwork within the time period specified
15 by the chair; (d) providing the employer's insurance carrier with inac-
16 curate information about an employee's employment as it relates to the
17 employee's eligibility for disability or family leave benefits; (e)
18 refusing to allow an employee who has requested disability or family
19 leave under this article to begin leave until the employer's insurance
20 carrier has approved the employee's claim for disability or family leave
21 benefits; (f) failing or refusing to carry disability or family leave
22 insurance as required by section two hundred eleven of this article; (g)
23 threatening termination, demotion, discipline, suspension, or reduction
24 of hours or wages, reporting or threatening to report an employee's
25 suspected citizenship or immigration status or the suspected citizenship
26 or immigration status of a family member of the employee to a federal,
27 state, or local agency, or threatening any other action against an
28 employee seeking to take disability or family leave that might reason-
29 ably deter an employee from exercising a right provided under this arti-
30 cle; or (h) threatening or taking any other action that may have the
31 effect of preventing or discouraging an employee from exercising a right
32 provided under this article.

33 3. Nothing in this section shall be deemed to diminish the rights,
34 privileges, or remedies of any employee under any collective bargaining
35 agreement or employment contract.

36 § 5. Section 203-b of the workers' compensation law, as added by
37 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
38 read as follows:

39 § 203-b. Reinstatement following disability or family leave. Any
40 eligible employee of a covered employer who takes leave, including leave
41 for disability, under this article shall be entitled, on return from
42 such leave, to be restored by the employer to the position of employment
43 held by the employee when the leave commenced, or to be restored to a
44 comparable position with comparable employment benefits, pay and other
45 terms and conditions of employment. The taking of family leave or leave
46 due to a disability shall not result in the loss of any employment bene-
47 fit accrued prior to the date on which the leave commenced. Nothing in
48 this section shall be construed to entitle any restored employee to the
49 accrual of any seniority or employment benefits during any period of
50 leave, or any right, benefit or position to which the employee would
51 have been entitled had the employee not taken the leave.

52 § 6. Section 203-c of the workers' compensation law, as added by
53 section 4 of part SS of chapter 54 of the laws of 2016, is amended to
54 read as follows:

55 § 203-c. Health insurance during disability or family leave. In
56 accordance with the Family and Medical Leave Act (29 U.S.C. §§

1 2601-2654), during any period of disability or family leave the employer
2 shall maintain any existing health benefits of the employee in force for
3 the duration of such leave as if the employee had continued to work from
4 the date [~~he or she~~] such employee commenced disability or family leave
5 until the date [~~he or she returns~~] of return to employment.
6 § 7. This act shall take effect immediately.