



General Assembly

February Session, 2020

Raised Bill No. 351

LCO No. 1812



Referred to Committee on LABOR AND PUBLIC EMPLOYEES

Introduced by:
(LAB)

AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO THE WORKERS' COMPENSATION ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2020*) (a) (1) Wherever the terms
2 "workers' compensation commissioner", "compensation commissioner"
3 or "commissioner" are used to denote a workers' compensation
4 commissioner in the following sections of the general statutes, the terms
5 "administrative law judge" shall be substituted in lieu thereof: 4-186, 5-
6 170, 5-192h, 17b-341, 19a-641, 28-14, 29-4a, 31-275, 31-276, 31-277, 31-278,
7 31-279, 31-280, 31-280a, as amended by this act, 31-280b, 31-282, 31-283,
8 31-283d, 31-283e, 31-283f, as amended by this act, 31-284c, 31-286, 31-
9 286a, 31-286b, 31-288, 31-289a, 31-290a, 31-293, 31-294b, 31-294c, 31-
10 294d, 31-294e, 31-294f, 31-296, 31-296a, 31-297, 31-297a, 31-298, as
11 amended by this act, 31-299, 31-299a, 31-299b, 31-300, 31-301, 31-301c,
12 31-301d, 31-302, 31-306, 31-306b, 31-307a, 31-308, 31-308a, 31-310, 31-312,
13 31-313, 31-315, 31-316, 31-318, 31-321, 31-323, 31-326, 31-327, 31-329, 31-
14 341, 31-342, 31-343, 31-349, as amended by this act, 31-349b, 31-349c, 31-
15 353, 31-355, 38a-470, 38a-500, 38a-527, 46b-231, 51-49, 51-49a, 51-49b, 51-
16 49c, 51-49d, 51-49g, 51-49h, 51-49i, 51-49j, 51-50, 51-50a, 51-50b, 51-51,

17 51-51h, 51-51i, 51-51k, 51-51l, 51-51m, 51-51n, 51-51o, 51-51p, 51-51q, 51-
18 51r, 51-51s, 51-63 and 52-149a.

19 (2) Wherever the terms "workers' compensation commissioner",
20 "compensation commissioner" or "commissioner" are used to denote a
21 workers' compensation commissioner in any public act of the 2020
22 session, the term "administrative law judge" shall be substituted in lieu
23 thereof.

24 (b) The Legislative Commissioners' Office shall, in codifying said
25 sections of the general statutes pursuant to subdivision (1) of subsection
26 (a) of this section or any public act of the 2020 session pursuant to
27 subdivision (2) of subsection (a) of this section, make such technical,
28 grammatical and punctuation changes as are necessary to carry out the
29 purposes of this section.

30 Sec. 2. Subsection (c) of section 31-280a of the general statutes is
31 repealed and the following is substituted in lieu thereof (*Effective October*
32 *1, 2020*):

33 (c) The advisory board shall meet at least [twice] once in each
34 calendar quarter and at such other times as the chairman or the
35 chairman of the Workers' Compensation Commission deem necessary.
36 All actions of the advisory board shall require the affirmative vote of six
37 members of the advisory board. The advisory board may bring any
38 matter related to the operation of the workers' compensation system to
39 the attention of the chairman of the Workers' Compensation
40 Commission. The advisory board may adopt any rules of procedure that
41 the board deems necessary to carry out its duties under this chapter.

42 Sec. 3. Section 31-283f of the general statutes is repealed and the
43 following is substituted in lieu thereof (*Effective October 1, 2020*):

44 (a) A Statistical Division shall be established within the Workers'
45 Compensation Commission. The division shall compile and maintain
46 statistics concerning occupational injuries and diseases, voluntary
47 agreements, status of claims and commissioners' dockets. [The division

48 shall be administered by a full-time salaried director who shall be
49 appointed by the chairman of the Workers' Compensation Commission
50 under the provisions of chapter 67. The director shall report to the
51 chairman.]

52 (b) Sufficient funding for the establishment and maintenance of the
53 Workers' Compensation Statistical Division shall be supplied from the
54 Administrative Costs Fund, as provided in section 31-345.

55 Sec. 4. Section 31-298 of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2020*):

57 Both parties may appear at any hearing, either in person or by
58 attorney or other accredited representative, and no formal pleadings
59 shall be required, beyond any informal notices that the commission
60 approves. In all cases and hearings under the provisions of this chapter,
61 the commissioner shall proceed, so far as possible, in accordance with
62 the rules of equity. He shall not be bound by the ordinary common law
63 or statutory rules of evidence or procedure, but shall make inquiry,
64 through oral testimony, deposition testimony or written and printed
65 records, in a manner that is best calculated to ascertain the substantial
66 rights of the parties and carry out the provisions and intent of this
67 chapter. No fees shall be charged to either party by the commissioner in
68 connection with any hearing or other procedure, but the commissioner
69 shall furnish at cost (1) certified copies of any testimony, award or other
70 matter which may be of record in his office, and (2) duplicates of audio
71 [cassette] recordings of any formal hearings. Witnesses subpoenaed by
72 the commissioner shall be allowed the fees and traveling expenses that
73 are allowed in civil actions, to be paid by the party in whose interest the
74 witnesses are subpoenaed. When liability or extent of disability is
75 contested by formal hearing before the commissioner, the claimant shall
76 be entitled, if he prevails on final judgment, to payment for oral
77 testimony or deposition testimony rendered on his behalf by a
78 competent physician, surgeon or other medical provider, including the
79 stenographic and videotape recording costs thereof, in connection with
80 the claim, the commissioner to determine the reasonableness of such

81 charges.

82 Sec. 5. Section 31-349 of the general statutes is repealed and the
83 following is substituted in lieu thereof (*Effective October 1, 2020*):

84 [(a)] The fact that an employee has suffered a previous disability,
85 shall not preclude him from compensation for a second injury, nor
86 preclude compensation for death resulting from the second injury. If an
87 employee having a previous disability incurs a second disability from a
88 second injury resulting in a permanent disability caused by both the
89 previous disability and the second injury which is materially and
90 substantially greater than the disability that would have resulted from
91 the second injury alone, he shall receive compensation for (1) the entire
92 amount of disability, including total disability, less any compensation
93 payable or paid with respect to the previous disability, and (2) necessary
94 medical care, as provided in this chapter, notwithstanding the fact that
95 part of the disability was due to a previous disability. For purposes of
96 this [subsection] section, "compensation payable or paid with respect to
97 the previous disability" includes compensation payable or paid
98 pursuant to the provisions of this chapter, as well as any other
99 compensation payable or paid in connection with the previous
100 disability, regardless of the source of such compensation.

101 [(b) As a condition precedent to the liability of the Second Injury
102 Fund, the employer or its insurer shall: (1) Notify the custodian of the
103 fund by certified mail no later than three calendar years after the date of
104 injury or no later than ninety days after completion of payments for the
105 first one hundred and four weeks of disability, whichever is earlier, of
106 its intent to transfer liability for the claim to the Second Injury Fund; (2)
107 include with the notification (A) copies of all medical reports, (B) an
108 accounting of all benefits paid, (C) copies of all findings, awards and
109 approved voluntary agreements, (D) the employer's or insurer's
110 estimate of the reserve amount to ultimate value for the claim, (E) a two-
111 thousand-dollar notification fee payable to the custodian to cover the
112 fund's costs in evaluating the claim proposed to be transferred and (F)
113 such other material as the custodian may require. The employer by

114 whom the employee is employed at the time of the second injury, or its
115 insurer, shall in the first instance pay all awards of compensation and
116 all medical expenses provided by this chapter for the first one hundred
117 four weeks of disability. Failure on the part of the employer or an insurer
118 to comply does not relieve the employer or insurer of its obligation to
119 continue furnishing compensation under the provisions of this chapter.
120 The custodian of the fund shall, by certified mail, notify a self-insured
121 employer or an insurer, as applicable, of the rejection of the claim within
122 ninety days after receiving the completed notification. Any claim which
123 is not rejected pursuant to this section shall be deemed accepted, unless
124 the custodian notifies the self-insured employer or the insurer within
125 the ninety-day period that up to an additional ninety days is necessary
126 to determine if the claim for transfer will be accepted. If the claim is
127 accepted for transfer, the custodian shall file with the workers'
128 compensation commissioner for the district in which the claim was filed,
129 a form indicating that the claim has been transferred to the Second
130 Injury Fund and the date that such claim was transferred and shall
131 refund fifteen hundred dollars of the notification fee to the self-insured
132 employer or the insurer, as applicable. A copy of the form shall be
133 mailed to the self-insured employer or the insurer and to the claimant.
134 No further action by the commissioner shall be required to transfer said
135 claim. If the custodian rejects the claim of the employer or its insurer,
136 the question shall be submitted by certified mail within thirty days of
137 the receipt of the notice of rejection by the employer or its insurer to the
138 commissioner having jurisdiction, and the employer or insurer shall
139 continue furnishing compensation until the outcome is finally decided.
140 Claims not submitted to the commissioner within said time period shall
141 be deemed withdrawn with prejudice. If the employer or insurer
142 prevails, or if the custodian accepts the claim all payments made beyond
143 the one-hundred-four-week period shall be reimbursed to the employer
144 or insurer by the Second Injury Fund.

145 (c) If the second injury of an employee results in the death of the
146 employee, and it is determined that the death would not have occurred
147 except for a preexisting permanent physical impairment, the employer

148 or its insurer shall, in the first instance, pay the funeral expense
149 described in this chapter, and shall pay death benefits as may be due for
150 the first one hundred four weeks. The employer or its insurer may
151 thereafter transfer liability for the death benefits to the Second Injury
152 Fund in accordance with the procedures set forth in subsection (b) of
153 this section.

154 (d) Notwithstanding the provisions of this section, no injury which
155 occurs on or after July 1, 1995, shall serve as a basis for transfer of a claim
156 to the Second Injury Fund under this section. All such claims shall
157 remain the responsibility of the employer or its insurer under the
158 provisions of this section.

159 (e) All claims for transfer of injuries for which the fund has been
160 notified prior to July 1, 1995, shall be deemed withdrawn with prejudice,
161 unless the employer or its insurer notifies the custodian of the fund by
162 certified mail prior to October 1, 1995, of its intention to pursue transfer
163 pursuant to the provisions of this section. No notification fee shall be
164 required for notices submitted pursuant to this subsection. This
165 subsection shall not apply to notices submitted prior to July 1, 1995, in
166 response to the custodian's request, issued on March 15, 1995, for
167 voluntary resubmission of notices.

168 (f) No claim, where the custodian of the Second Injury Fund was
169 served with a valid notice of intent to transfer under this section, shall
170 be eligible for transfer to the Second Injury Fund unless all requirements
171 for transfer, including payment of the one hundred and four weeks of
172 benefits by the employer or its insurer, have been completed prior to
173 July 1, 1999. All claims, pursuant to this section, not eligible for transfer
174 to the fund on or before July 1, 1999, will remain the responsibility of the
175 employer or its insurer.]

176 Sec. 6. Subsection (a) of section 31-354 of the general statutes is
177 repealed and the following is substituted in lieu thereof (*Effective October*
178 *1, 2020*):

179 (a) There shall be a fund to be known as the Second Injury Fund. Each

180 employer, other than the state, shall, within thirty days after notice
181 given by the State Treasurer, pay to the State Treasurer for the use of the
182 state a sum in payment of his liability under this chapter which shall be
183 calculated in accordance with the Second Injury Fund surcharge base,
184 as defined in section 31-349g, [and shall be assessed in accordance with
185 subsection (f) of section 31-349,] sections 31-349g, 31-349h and 31-349i,
186 this section, section 31-354b and sections 8 and 9 of public act 96-242.
187 Such sum shall be an amount sufficient to (1) pay the debt service on
188 state revenue bond obligations authorized to be issued under and for
189 the purposes set forth in section 31-354b including reserve and covenant
190 coverage requirements, (2) provide for costs and expenses of operating
191 the Second Injury Fund, and (3) pay Second Injury Fund stipulations on
192 claims settled by the custodian or other benefits payable out of the
193 Second Injury Fund and not funded through state revenue bond
194 obligations and shall be determined in accordance with the regulations
195 adopted pursuant to the provisions of section 31-349g. The custodian
196 shall establish a factor for the annual surcharge that caps such surcharge
197 for the fiscal years ending June 30, 1996, 1997 and 1998. In determining
198 such factor the custodian shall consider the funding mechanism
199 authorized by [subsection (f) of section 31-349,] sections 31-349g, 31-
200 349h and 31-349i, this section, section 31-354b and sections 8 and 9 of
201 public act 96-242, recognize that an acceptable level of employer
202 assessment is important to the vitality of the economy of the state and
203 nevertheless shall assure provision of services to injured workers that
204 enhances their ability to return to work and improve their quality of life.
205 In any event, such factor shall not exceed, with respect to insured
206 employers, a rate of fifteen per cent on the Second Injury Fund
207 surcharge base with respect to workers' compensation and employers'
208 liability policies and, with respect to self-insured employers, a
209 comparable percentage limitation representing their pro rata share of
210 any assessment. Any employer or any insurance company acting as
211 collection agent for the custodian of the Second Injury Fund who fails to
212 pay in accordance with such regulations shall pay a penalty to the State
213 Treasurer of fifteen per cent on the unpaid assessment or surcharge or
214 fifty dollars, whichever is greater. Interest at the rate of six per cent per

215 annu shall be charged on any amounts owed on assessment audits or
216 surcharge audits. For self-insured employers interest shall accrue thirty
217 days after notice from the Second Injury Fund of the unpaid audit
218 assessment. For insurance companies, the interest shall accrue from the
219 date of the notice of audit errors or deficiencies as determined by the
220 date postmarked by the United States Postal Service. The State Treasurer
221 shall notify each employer of the penalty or interest provision with the
222 notice of assessment. Any partial payments made to the fund shall be
223 first applied to any unpaid penalty, then to any unpaid interest and the
224 remainder, if any, to the unpaid assessment or surcharge. Interest or
225 penalties shall be applied if assessment or surcharge reports or
226 payments are postmarked by the United States Postal Service after the
227 designated due date. The sums received shall be accounted for
228 separately and apart from all other state moneys and the faith and credit
229 of the state of Connecticut is pledged for their safekeeping. The State
230 Treasurer shall be the custodian of the fund and all disbursements from
231 the fund shall be made by the Treasurer or the Treasurer's deputies. The
232 moneys of the fund shall be invested by the Treasurer in accordance
233 with applicable law and section 8 of public act 96-242. Interest, income
234 and dividends from the investments shall be credited to the fund. Each
235 employer, each private insurance carrier acting on behalf of any
236 employer and each interlocal risk management agency acting on behalf
237 of any employer shall annually, on or before April first, report to the
238 State Treasurer, in the form prescribed by the State Treasurer, the
239 amount of money expended by or on behalf of the employer in
240 payments for the preceding calendar year. Each private insurance
241 carrier, each self-insurance group and each interlocal risk management
242 agency shall submit annually, on or before April first, to the State
243 Treasurer, in the form prescribed by the State Treasurer, a report of the
244 total Second Injury Fund surcharge base collected in the preceding
245 calendar year and a report of the projected total Second Injury Fund
246 surcharge base for the current calendar year. The fund shall be used to
247 provide the benefits set forth in section 31-306 for adjustments in the
248 compensation rate and payment of certain death benefits, in section 31-
249 307b for adjustments where there are relapses after a return to work, in

250 section 31-307c for totally disabled persons injured prior to October 1,
251 1953, in section 31-349, as amended by this act, for disabled or
252 handicapped employees and in section 31-355 for the payment of
253 benefits due injured employees whose employers or insurance carriers
254 have failed to pay the compensation, and medical expenses required by
255 this chapter, or any other compensation payable from the fund as may
256 be required by any provision contained in this chapter or any other
257 statute and to reimburse employers or insurance carriers for payments
258 made under subsection (b) of section 31-307a. The assessment required
259 by this section is a condition of doing business in this state and failure
260 to pay the assessment, when due, shall result in the denial of the
261 privilege of doing business in this state or to self-insure under section
262 31-284. Any administrative or other costs or expenses incurred by the
263 State Treasurer in connection with carrying out the provisions of this
264 part, including the hiring of necessary employees, shall be paid from the
265 fund. The State Treasurer may adopt regulations, in accordance with the
266 provisions of chapter 54, prescribing the practices, policies and
267 procedures to be followed in the administration of the Second Injury
268 Fund.

269 Sec. 7. Subsection (a) of section 31-355a of the general statutes is
270 repealed and the following is substituted in lieu thereof (*Effective October*
271 *1, 2020*):

272 (a) Whenever the Second Injury Fund is required, pursuant to section
273 31-355 [or subsection (c) of section 31-349,] to pay benefits or
274 compensation mandated by the provisions of this chapter for any
275 employer or insurer who fails or is unable to make such payments, the
276 amount so paid by the fund shall be collectible by any means provided
277 by law for the collection of any tax due the state of Connecticut or any
278 subdivision thereof, including any means provided by section 12-35.
279 Tax warrants referred to in said section 12-35 may be signed by the State
280 Treasurer.

281 Sec. 8. Sections 31-276a, 31-298a and 31-304 of the general statutes are
282 repealed. (*Effective October 1, 2020*)

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2020</i>	New section
Sec. 2	<i>October 1, 2020</i>	31-280a(c)
Sec. 3	<i>October 1, 2020</i>	31-283f
Sec. 4	<i>October 1, 2020</i>	31-298
Sec. 5	<i>October 1, 2020</i>	31-349
Sec. 6	<i>October 1, 2020</i>	31-354(a)
Sec. 7	<i>October 1, 2020</i>	31-355a(a)
Sec. 8	<i>October 1, 2020</i>	Repealer section

Statement of Purpose:

To make minor and technical changes to the Workers' Compensation Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]