

2010 -- S 2366

LC00535

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION  
BENEFITS

Introduced By: Senators Ruggerio, Goodwin, Doyle, Pichardo, and Miller

Date Introduced: February 11, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-18.3 of the General Laws in Chapter 28-33 entitled  
2 "Workers' Compensation - Benefits" is hereby repealed.

3 ~~28-33-18.3. Continuation of benefits -- Partial incapacity. -- (a) (1) For all injuries~~  
4 ~~occurring on or after September 1, 1990, in those cases where the employee has received a notice~~  
5 ~~of intention to terminate partial incapacity benefits pursuant to section 28-33-18, the employee or~~  
6 ~~his or her duly authorized representative may file with the workers' compensation court a petition~~  
7 ~~for continuation of benefits on forms prescribed by the workers' compensation court. In any~~  
8 ~~proceeding before the workers' compensation court on a petition for continuation of partial~~  
9 ~~incapacity benefits, where the employee demonstrates by a fair preponderance of the evidence~~  
10 ~~that his or her partial incapacity poses a material hindrance to obtaining employment suitable to~~  
11 ~~his or her limitation, partial incapacity benefits shall continue. For injuries on and after July 1,~~  
12 ~~2010, "material hindrance" is defined to include only compensable injuries causing a greater than~~  
13 ~~sixty five percent (65%) degree of functional impairment and/or disability. Any period of time for~~  
14 ~~which the employee has received benefits for total incapacity shall not be included in the~~  
15 ~~calculation of the three hundred and twelve (312) week period.~~

16 ~~(2) The provisions of this subsection apply to all injuries from Sept. 1, 1990, to July 1,~~  
17 ~~2010.~~

18 ~~(b) (1) Where any employee's incapacity is partial and has extended for more than three~~

1 ~~hundred and twelve (312) weeks and the employee has proved an entitlement to continued~~  
2 ~~benefits under subsection (a) of this section, payments made to these incapacitated employees~~  
3 ~~shall be increased annually on the tenth (10th) day of May thereafter so long as the employee~~  
4 ~~remains incapacitated. The increase shall be by an amount equal to the total percentage increase~~  
5 ~~in the annual consumer price index, United States city average for urban wage earners and~~  
6 ~~clerical workers, as formulated and computed by the Bureau of Labor Statistics of the United~~  
7 ~~States Department of Labor for the period of March 1 to February 28 each year.~~

8 ~~(2) "Index" as used in this section refers to the consumer price index, United States city~~  
9 ~~average for urban wage earners and clerical workers, as that index was formulated and computed~~  
10 ~~by the Bureau of Labor Statistics of the United States Department of Labor.~~

11 ~~(3) The annual increase shall be based upon the percentage increase, if any, in the~~  
12 ~~consumer price index for the month of a given year, over the index for February, the previous~~  
13 ~~year. Thereafter, increases shall be made on May 10 annually, based upon the percentage~~  
14 ~~increase, if any, in the consumer price index for the period of March 1 to February 28.~~

15 ~~(4) The computations in this section shall be made by the director of labor and training~~  
16 ~~and promulgated to insurers and employers making payments required by this section. Increases~~  
17 ~~shall be paid by insurers and employers without further order of the court. If payment payable~~  
18 ~~under this section is not mailed within fourteen (14) days after the employer or insurer has been~~  
19 ~~notified by publication in a newspaper of general circulation in the state it becomes due, there~~  
20 ~~shall be added to the unpaid payment an amount equal to twenty percent (20%) of it, to be paid at~~  
21 ~~the same time as but in addition to the payment.~~

22 ~~(5) This section applies only to payment of weekly indemnity benefits to employees as~~  
23 ~~described in subdivision (1) of this subsection, and does not apply to specific compensation~~  
24 ~~payments for loss of use or disfigurement or payment of dependency benefits or any other~~  
25 ~~benefits payable under the Workers' Compensation Act.~~

26 ~~(c) No petitions for commutation shall be allowed or entertained in those cases where an~~  
27 ~~employee is receiving benefits pursuant to this section.~~

28 SECTION 2. This act shall take effect upon passage and shall apply retroactively  
29 regardless of the date of injury.

=====  
LC00535  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO LABOR AND LABOR RELATIONS – WORKERS' COMPENSATION  
BENEFITS

\*\*\*

1           This act would repeal the section of the Rhode Island General Laws relating to  
2 continuation of workers' compensation benefits for partial incapacity.

3           This act would take effect upon passage and would apply retroactively regardless of the  
4 date of injury.

=====  
LC00535  
=====