

SENATE No. 162

By Mr. Wetmore, a petition (accompanied by bill, Senate, No. 162) of Robert D. Wetmore for legislation to provide for permanent partial compensation under the workmen's compensation law. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT PROVIDING FOR PERMANENT PARTIAL COMPENSATION UNDER
THE WORKMEN'S COMPENSATION LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 152 of the General Laws is hereby amended by in-
2 serting after Section 34A the following section: —

3 *Section 34B.* While the incapacity resulting from the in-
4 jury is both permanent and partial, the insurer shall pay to
5 the injured employee following payment of the maximum
6 amount of compensation provided in Section 34 and 35, or
7 either of them, a weekly compensation equal to the entire
8 difference between his average weekly wage before the in-
9 jury and the average weekly wage he is able to earn there-
10 after but not more than the average weekly wage in the Com-
11 monwealth, as of the date of the injury, as determined ac-
12 cording to the provisions of subsection (a) of section twenty-
13 nine of chapter one hundred and fifty-one A, and promulgated
14 by the director of the division of employment security on or
15 before October first of each year.

16 Effective October first of each year the weekly compensa-
17 tion benefits payable under this section, arising out of injur-
18 ies sustained after the date of enactment of this Act shall be
19 increased by a percentage equal to the percentage the aver-
20 age weekly wage in the Commonwealth, as determined ac-
21 cording to the provision of subsection (a) of section fifty-one
22 A, and promulgated by the Director of the Division of Em-
23 ployment Security on or before October first of each year,
24 exceeds the average weekly wage in the Commonwealth as

25 above determined, for the period beginning with the preced-
26 ing October first. The cost of living increases as determined
27 under this paragraph shall be paid in addition to the partial
28 weekly compensation as determined by the first paragraph of
29 this section, even in the event they should exceed his average
30 weekly wage on the date of the injury.

31 In the event the average weekly wage in the Common-
32 wealth, as above determined, decreases, compensation bene-
33 fits shall not be reduced.

34 The chairman of the industrial accident board shall com-
35 pute and promulgate such compensation benefits on each Oc-
36 tober first.

37 Application for payments under this section may be made
38 by an injured employee before he has received the maximum
39 compensation to which he is or may be entitled under sec-
40 tions 34, 37 and 35.

41 In any proceedings brought by the insurer to discontinue
42 compensation under this section, a member or the reviewing
43 board may, after hearing, order the insurer to continue pay-
44 ments to the injured employee hereunder. The reasonable
45 costs of such proceeding, including therein reasonable counsel
46 fees and witness fees of physicians appearing at such pro-
47 ceeding, shall be determined by a member or the reviewing
48 board and shall be paid by the insurer.