

2010 -- S 2335

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS

Introduced By: Senator Roger Picard

Date Introduced: February 11, 2010

Referred To: Senate Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-35-12 of the General Laws in Chapter 28-35 entitled "Workers'
2 Compensation - Procedure" is hereby amended to read as follows:
3 **28-35-12. Petition for determination of controversy -- Contents and filing.** -- (a) In all
4 disputes between an employer and employee in regard to compensation or any other obligation
5 established under chapters 29 -- 38 of this title, and when death has resulted from the injury and
6 the dependents of the deceased employee entitled to compensation are, or its apportionment
7 among them is, in dispute, any person in interest or his or her duly authorized representative may
8 file with the administrator of the workers' compensation court a petition and as many copies of it
9 as there are respondent parties to the dispute upon forms prescribed and furnished by the court,
10 setting forth the names and residences of the parties, the facts relating to employment at the time
11 of injury, the cause, extent, and character of the injury, the amount of wages, earnings, or salary
12 received at the time of the injury, and the knowledge of the employer of notice of the occurrence
13 of the injury, and any other facts that may be necessary and proper for the information of the
14 court, and shall state the matter in dispute and the claims of the petitioner with reference to it;
15 provided, that no petition shall be filed within twenty-one (21) days of the date of the injury and
16 no petition regarding any other obligation established under chapters 29 -- 38 of this title shall be
17 filed until twenty-one (21) days after written demand for payment upon the employer or insurer
18 or written notice to the employer or insurer of failure to fulfill the obligation, except that any
19 petition alleging the non-payment or late payment of weekly compensation benefits, attorneys'

1 fees, and costs, may be filed after fourteen (14) days from the date the payment is due as set forth
2 in sections 28-35-42, 28-35-43, and 28-35-20(c). Further, no petition shall be filed for so-called
3 “no loss of time” claims, or where incapacity for work has not exceeded three (3) days, in
4 accordance with section 28-33-4 of the general laws. Medical bills for services ordered paid by
5 decree or pretrial order shall be paid within fourteen (14) days of the entry of the decree or order.
6 In the event that the bills are not paid within the fourteen (14) day period, a petition may be filed
7 to enforce said order or decree without any additional written notice to the employer or insurer.

8 (b) (1) If one or more claims are filed for an injury and there are two (2) or more
9 insurers, any one of which may be held to be liable to pay compensation, and the judge
10 determines that the injured employee would be entitled to receive compensation but for the
11 existence of a controversy as to which one of the insurers is liable to pay compensation, one of
12 the insurers shall be selected by a judge of the workers' compensation court, to pay to the injured
13 employee the compensation, pending a final decision of the workers' compensation court as to the
14 matter in controversy, and that decision shall require that the amount of compensation paid shall
15 be deducted from the award if made against another insurer and shall be paid by that other insurer
16 to the insurer selected by the judge.

17 (2) The workers' compensation court shall award compensation, costs, and attorneys'
18 fees in its discretion if one of the insurers is held to be liable following the hearing.

19 (c) If any determination of the workers' compensation court entitles an employee to
20 retroactive payment of weekly benefits, the court shall award to the employee interest at the rate
21 per annum provided in section 9-21-10 on that retroactive weekly payment from six (6) months
22 subsequent to the date that the employee first filed a petition for benefits to the time when that
23 retroactive payment is actually made. If the proceedings are unduly delayed by or at the request
24 of the employee or his or her attorney, the judge may reduce or eliminate interest on retroactive
25 payment; provided, that the provisions of this section as they relate to interest shall apply only to
26 petitions filed on or after July 1, 1984.

27 (d) Any fine, penalty, or interest expense incurred by an insurer under this section may
28 not be used as an expense for the purpose of seeking a rate increase before the department of
29 business regulation.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would provide that no petition shall be filed for “no loss of time” where the
- 2 incapacity for work has not exceeded three (3) days.
- 3 This act would take effect upon passage.

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