

HOUSE No. 1828

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to injured workers.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1828 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO INJURED WORKERS.

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

1 SECTION 1. Subsection 1 of section 1 of Chapter 152 of the General Laws, as appearing in the 2004
2 Official Edition, is hereby amended by adding the following to the end of the first paragraph thereof:-

3 If the employee returns to employment after an injury covered by this chapter without a
4 lump sum settlement and earns less than the pre-injury wages and such decrease results from the prior work
5 related injury, the prior average weekly wage shall be applicable to any subsequent period of incapacity,
6 whether or not said incapacity results from a new injury or subsequent injury as set forth in section thirty-
7 five B.

8 Section 2. Section 13A of said chapter 152, as so appearing, is further amended by striking out
9 subsection 4 and inserting in place thereof the following subsection:-

10 (4) Whenever an insurer or self-insurer files a complaint to reduce or discontinue an
11 employee's benefits, and the insurer or self-insurer withdraws such complaint prior to five days before a
12 hearing pursuant to section eleven, or whenever an insurer contests a claim for benefits on a form
13 prescribed by the department, other than the initial liability claim as provided by subsection (1), by failing
14 to commence the compensation requested within twenty-one days of receipt of such claim, and is later
15 required to pay benefits following a conference pursuant to section ten A on said claim, the insurer or self-
16 insurer shall pay an attorney's fees to the employees counsel in the amount of seven hundred dollars, plus

17 all necessary expenses. However, if the insurer or self-insurer withdraws its complaint within five days of
18 the date set for conference, the fee due shall be three hundred fifty dollars, plus payment of all necessary
19 expenses. Any fee payable under this paragraph shall be reduced by half when the attorney failed to appear
20 at a scheduled conciliation and such failure was not beyond the control of the attorney.