



SPONSOR: Sen. Marshall & Rep. Lofink
Sens. Adams, Blevins, DeLuca, Henry,
McBride, McDowell, Sharp, Vaughn &
Winslow, Reps. Oberle, Spence, Keeley,
Mulrooney & Scott

DELAWARE STATE SENATE

141st GENERAL ASSEMBLY

SENATE BILL NO. 111

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO ATTORNEYS' FEES ALLOWED
BY THE INDUSTRIAL ACCIDENT BOARD FOR SUCCESSFUL CLAIMANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- 1 Section 1. Amend Section 2320(10)(a) of Title 19 by striking the figure of "\$2,250.00" and substituting in lieu
2 thereof the following: "...ten times the average weekly wage in Delaware as announced by the Secretary of Labor at the
3 time of the award,..."
4 Section 2. This act shall take effect on July 1, 2001.

SYNOPSIS

This legislation would allow injured workers in Delaware to keep a greater percentage of their workers compensation benefits. Statutory attorney's fees are only an issue in worker's compensation cases that go to a hearing or in cases that are not settled within thirty days of the hearing. Presently, claimant's attorneys represent claimants on a contingent fee basis. If the Industrial Accident Board awards a fee, the claimant receives a credit for the amount of statutory attorney's fees paid by the carrier. For example, under existing law, if a worker's compensation case goes to a hearing and the claimant is awarded \$15,000.00 in permanency benefits, only \$2,250.00 of statutory attorney's fees can be awarded with the balance of the one-third contingent fee of \$2,750.00 paid by the claimant. Under the proposed law, with the same example, the statutory attorney's fees will increase to cover almost the entire attorney's fee, so that the amount the attorney receives remains the same, but the injured worker would keep a higher portion of the recovery. The bill increases the amount of an attorney's fees that can be assessed against the worker's compensation insurance company from the current maximum of \$2,250.00 to a sliding scale based upon the average weekly wage in Delaware as announced annually by the Secretary of Labor. The current average weekly wage as of June 12, 2000 is \$674.43. The current maximum of \$2,250.00 has been in effect since July 21, 1966, when the cap was raised from \$500.00 to \$2,250.00, a 450% increase. This bill is not new legislation. It merely updates the existing statute, which has been in effect for 35 years. It raises the "cap" on fees that can be awarded by the Industrial Accident Board from \$2,250.00 to \$6,744.00.

Author: Sen. Marshall