

**HOUSE . . . . . No. 1868**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Relative to Worker's Compensation ..

*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. Section 36 of Chapter 152 of the General Laws is hereby amended by  
2 striking out subsection (k) and substituting in its place the following paragraph:— “Subsection  
3 (k). For bodily disfigurement, an amount which, according to the determination of the member or  
4 reviewing board, is a proper and equitable compensation, not to exceed the average weekly wage  
5 in the Commonwealth at the date of injury multiplied by twenty-nine; which sum shall be  
6 payable in addition to all other sums due under this section.”

7 SECTION 2. Section 33 of Chapter 152 of the General Laws is hereby amended by  
8 striking out the word “four” and inserting in place thereof the word “eight.”

9 SECTION 3. Chapter 152 of the General Laws, as now appearing, is hereby amended by  
10 striking out Section 35 as so appearing, and inserting in place thereof, the following section:—  
11 “Section 35. While the incapacity for work resulting from the injury is partial, during each week  
12 of incapacity, the insurer shall pay the injured employee a weekly compensation equal to sixty  
13 percent of the difference between his or her average weekly wage before the injury and the  
14 weekly wage he or she is capable of earning after the injury. An insurer may reduce the amount

15 paid to an employee under this section to the amount at which the employee's combined weekly  
16 earnings and benefits are equal to two times the average weekly wage in the Commonwealth at  
17 the time of such reduction. The total number of weeks of compensation due the employee under  
18 this section shall not exceed two hundred sixty; provided however, that this number may be  
19 extended to five hundred twenty if an insurer agrees or an administrative judge finds that the  
20 employee has, as a result of a personal injury under this chapter, suffered a permanent loss of  
21 seventy-five percent or more of any bodily function or sense specified in paragraph (a), (b), (e),  
22 (f), (g), or (h) of subsection (1) of Section 36, developed a permanently disabling occupational  
23 disease which is of a physical nature and cause, or has returned to employment pursuant to an  
24 Individual Written Rehabilitation Plan pursuant to Section 30(H); or has been found unsuitable  
25 for vocational rehabilitation by the Office of Education and Vocational Rehabilitation; or has  
26 returned to employment at less than his pre-injury average weekly wage; or has been found by an  
27 administrative judge to have a permanent partial incapacity. Where applicable, losses under this  
28 section shall be determined in accordance with standards set forth in the American Medical  
29 Association Guides to the Evaluation of Permanent Impairments. Where the insurer agrees or the  
30 administrative judge finds such permanent partial disability as is described in this paragraph, the  
31 total number of weeks the employee may receive benefits under this section shall not exceed five  
32 hundred twenty. Where there has been no such agreement or finding the number of weeks the  
33 employee may receive benefits under these sections shall not exceed three hundred sixty-four."