

Potential Major Impact on Workers' Compensation as Senate Passes Bill to Expand Parking Lot Coverage

On January 11, 2021, the [New Jersey Senate passed a bill](#) to expand workers' compensation benefits involving parking lot cases. This bill, not yet passed into law, could have a major impact on future workers' compensation claims. Presently, under **N.J.S.A. 35:15-36**, employment begins when the employee arrives at their place of employment and terminates when they leave, excluding areas not controlled by the employer.

Under the proposed changes to **N.J.S.A. 35:15-36**, the New Jersey Legislature seeks to expand coverage to parking lots where the employer provides or designates parking for employees. The changes would find employment to start when the employee arrives at the parking area, but before reporting to their physical work location, and ends when the employee leaves the parking area at the end of the day. If implemented, then accidents would be covered the moment the employee's car enters the employer provided parking lot or designated parking area. Such change does not consider that some parking lots are utilized by multiple businesses (such as in the instance of shopping plazas), and it could be difficult to determine which area of the lot is owned or controlled by whom.

The second change proposed under Senate Bill 771 is that if the parking area is separate from the place of employment (think of a parking garage not located directly next to the business), the employee would be in the course of employment when traveling from the parking area to the place of employment and back. This change would effectively overrule the Supreme Court decision in Hersh v. County of Morris, 717 N.J. 236 (2014), where the Court concluded that providing optional parking for free two blocks from the County offices did not expand the course of employment.

Presently a parking lot provided by the employer is found by the Courts to be an extension of the employer's premise and an injury is compensable in the parking lot when it is under the control of the employer. The change proposed in Senate Bill 771 would make any injury occurring at the parking area or in the employee's travel to their place of employment a compensable work injury.

Comment: The proposed changes benefit the injured worker by expanding parking lot claims while putting more burden on the employer to ensure against accidents in areas over which they have no control. This would likely increase workers' compensation related claims. It may also incentivize employers to avoid any control over or provision of parking for their employees.