HOUSE DOCKET, NO. 2939 FILED ON: 1/18/2013

# HOUSE . . . . . No. 1699

## The Commonwealth of Massachusetts

PRESENTED BY:

***Garrett J. Bradley***

*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:

An act relative to workers compensation benefits.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Garrett J. Bradley* | *3rd Plymouth* |
| *Eugene L. O'Flaherty* | *2nd Suffolk* |

HOUSE DOCKET, NO. 2939 FILED ON: 1/18/2013

# HOUSE . . . . . No. 1699

By Mr. Bradley of Hingham, a petition (accompanied by bill, House, No. 1699) of Garrett J. Bradley and Eugene L. O'Flaherty relative to workers compensation benefits. Labor and Workforce Development.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2289* OF 2011-2012.]

## The Commonwealth of Massachusetts

An act relative to workers compensation benefits.

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

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

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

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

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

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