

19...., and request that my name be printed upon the official primary ballot as a candidate of the Party.

Accompanying this declaration is the sum of \$....., the fee required by law of me for becoming a candidate.

.....
Signature of Candidate

Subscribed and sworn to before me this day of, 19.....

.....
Notary Public.

Sec. 2. **Primary Election.** Sec. 38-43, ACLA 1949, is hereby repealed and re-enacted to read as follows:

Sec. 38-4.3. **Primary Election.** The party primary election for the nomi-

nation of candidates of recognized political parties who will appear on the general election ballot shall be held on the first Tuesday after the first Monday in August in 1960 and similarly every second year thereafter.

Sec. 3. **General Election.** Sec. 38-5-1, ACLA 1949, is hereby repealed and re-enacted to read as follows:

Sec. 38-5-1. **General Election.** The general election for members of the legislature, the Alaska delegation to Congress, and the governor and secretary of state, as appropriate, shall be held on the Tuesday after the first Monday in November of the even-numbered years.

Sec. 4. **Effective Date.** This Act shall take effect immediately upon its passage and approval or upon its becoming law without such approval.

Approved May 6, 1959

CHAPTER 192
AN ACT

Authorizing an appropriation to the University of Alaska for the construction of a gymnasium.

(H.B. 207)

Be it enacted by the Legislature of the State of Alaska:

University of Alaska for the purpose of constructing a gymnasium is hereby authorized.

Section 1. An appropriation to the

Approved May 7, 1959

CHAPTER 193
AN ACT

Establishing a new Alaska Workmen's Compensation program, repealing Sections 43-3-1 through 43-3-39, ACLA 1949, as amended by Chapter 104, SLA 1949, Chapter 133, SLA 1951, Chapter 24, SLA 1953, Chapter 60, SLA 1953, and Chapter 141, SLA 1955; providing for an effective date.

(S.B. 22)

Be it enacted by the Legislature of the State of Alaska:

Act—

Section 1. **Short Title.** This Act may be cited as "Alaska Workmen's Compensation Act".

(1) The term "adoption" or "adopted" means legal adoption prior to the time of the injury.

Sec. 2. **Definition.** When used in this

(2) The term "Board" means the Alaska Workmen's Compensation Board

to be established within the Department of Labor for the purpose of administering provisions of this Act.

(3) The term "carrier" means any person authorized to insure under this Act and includes self-insurers.

(4) "Child" shall include a posthumous child, a child legally adopted prior to the injury of the employee, a child in relation to whom the deceased employee stood in loco parentis for at least one year prior to the time of injury, and a stepchild or acknowledged illegitimate child dependent upon the deceased, but does not include married children unless wholly dependent on him. "Grandchild" means a child as above defined of a child as above defined. "Brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but does not include married brothers and married sisters unless wholly dependent on the employee. "Child", "grandchild", "brother", and "sister" include only persons who are under eighteen years of age, and also persons who, though eighteen years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability.

(5) "Compensation" means the money allowance payable to an employee or his dependents as provided for in this Act, and includes funeral benefits provided therein.

(6) "Death" as a basis for a right to compensation means only death resulting from an injury.

(7) "Disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment.

(8) Wherever the term "employer" is used in this Act, reference is had to the State or any of its political subdivisions and to any person or persons, partnerships, joint stock company, association or corporation employing one or more persons in connection with any business or industry coming within the scope hereof and carried on in this State, and whenever the term "employee" is used herein, reference is had to an em-

ployee employed by an employer as above defined.

Every executive officer elected or appointed and empowered in accordance with the charter and by-laws of a corporation, other than an official of a municipal corporation or a charitable, religious, educational or other non-profit corporation, shall be an employee of such corporation under this Act. Notwithstanding any other provision of this Act, any such executive officer of a municipal corporation or of a charitable, religious, educational, or any other non-profit corporation may be brought within the coverage of its insurance contract by any such corporation by specifically including such executive officer in such contract of insurance and the election to bring such executive officer within the coverage shall continue for the period such contract of insurance is in effect, and during such period such executive officers thus brought within the coverage of the insurance contract shall be employees of such corporation under this Act.

(9) The term "injury" means accidental injury or death arising out of and in the course of employment, and such occupational disease or infection as arises naturally out of such employment or as naturally or unavoidably results from such accidental injury, and includes any injury caused by the willful act of a third person directed against an employee because of his employment.

(10) "Married" shall include one who is divorced but is required by the decree of divorce to contribute to the support of his former wife.

(11) "Medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, hospital services, hospital supplies, medicine, prosthetic devices, and transportation charges to the nearest point where adequate medical facilities are available.

(12) The term "parent" includes step-parents and parents by adoption, parents-in-law, and any person who for more than three years prior to the death of the deceased employee stood in the place of a parent to him, if dependent on the injured employee.

(13) The term "person" means individual, partnership, corporation, or association.

(14) The term "physician" includes doctors of medicine, surgeons, chiropractors and osteopaths.

(15) The term "self-insurer" means an employer who in lieu of insuring his liability hereunder in the manner provided herein elects to pay direct the compensation provided in this Act, and who shall have furnished to the Board satisfactory proof of his financial ability to make such direct payments.

(16) "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the injury, including the reasonable value of board, rent, housing, lodging, or similar advantage received from the employer, and gratuities received in the course of employment from others than the employer.

(17) The term "widow" includes only the decedent's wife living with or dependent for support upon him at the time of his death; or living apart for justifiable cause or by reason of his desertion at such a time.

(18) The term "widower" includes only the decedent's husband who at the time of her death lived with her and was dependent for support upon her.

(19) The singular includes the plural and the masculine includes the feminine and neuter.

(20) The term "Insurance Commissioner" refers to the person who heads the insurance division or section of the Department of Commerce and is charged with the administration of the state insurance laws.

Sec. 3. Coverage. (1) Every employer shall be liable for and shall secure the payment to his employees of the compensation payable under Sections 6, 7, and 8. In the case of an employer who is a subcontractor, the contractor shall be liable for and shall secure the payment of such compensation to employees of the subcontractor unless the subcontractor has secured such payment.

(2) Compensation shall be payable irrespective of fault as a cause for the injury.

Sec. 4. Exclusiveness of Liability. The liability of an employer prescribed in Section 3 shall be exclusive and in place of all other liability of such employer to the employee, his legal representative, husband, or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death, except that if an employer fails to secure payment of compensation as required by this Act, an injured employee, or his legal representative in case death results from the injury, may elect to claim compensation under this Act, or to maintain an action at law or in admiralty for damages on account of such injury or death. In such action the defendant may not plead as a defense that the injury was caused by the negligence of a fellow servant, nor that the employee assumed the risk of his employment, nor that the injury was due to the contributory negligence of the employee.

Sec. 5. Time for Commencement of Compensation: Maximum and Minimum Compensation. (1) No compensation shall be allowed for the first three days of the disability, except the benefits provided for in Section 6; Provided, however, that in case the injury results in disability of more than twenty-eight days, the compensation shall be allowed from the date of the disability.

(2) Compensation for temporary disability or permanent partial disability shall not exceed \$100.00 per week and shall not be less than \$18.00 per week; Provided, however, that, if the employee's average weekly wages, as computed under Section 9, are less than \$18.00 per week, he shall receive as compensation for temporary disability his average weekly wages.

(3) In computing compensation for permanent total disability the average weekly wages shall be considered to have been not more than \$81.00; Provided, however, if the average weekly wages as computed under Section 9 are less than \$18.00 per week he shall receive as compensation for permanent total dis-

ability his average weekly wages.

Sec. 6. Medical Services and Supplies.

(1) The employer shall furnish such medical surgical, and other attendance or treatment, nurse and hospital service, medicine, crutches, and apparatus, for such period as the nature of the injury or the process of recovery may require. Whenever medical care is required, the injured employee may designate any licensed physician within the state to render such care except in cases where, in the judgment of the Board, care and/or treatment can best be administered by the selection of another physician. Upon procuring the services of such physician, the injured employee shall give proper notification of his selection to the employer within a reasonable time after first being treated. If for any reason during the period when medical care is required, the employee wishes to change to another physician, he may do so in accordance with rules prescribed by the Board. If the employee is unable to designate a physician and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a physician and so advises the employer, the employer shall designate the physician. The foregoing provision shall not, however, deprive the employee from subsequently designating a physician for continuance of required medical care. No claim for medical or surgical treatment shall be valid and enforceable, as against such employer, unless within twenty days following the first treatment the physician giving such treatment or the employee receiving such treatment furnished to the employer and the Board notice of such injury and treatment, preferably on a form or forms prescribed by the Board. The Board may, however, excuse the failure to furnish such notice within twenty days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time during such period the employee unreasonably refuses to submit to medical or surgical treatment, the Board may, by order, suspend the payment of further compensation during such time as such refusal continues,

and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.

(2) Whenever in the opinion of the Board a physician has not impartially estimated the degree of permanent disability or the extent of temporary disability of any injured employee, the Board shall have the power to cause such employee to be examined by a physician selected by the Board and to obtain from such physician a report containing his estimate of such disabilities. If the report of such physician shows that the estimate of the physician has not been impartial from the standpoint of such employee, the Board shall have the power in its discretion to charge the cost of such examination to the employer, if he is a self-insurer, or to the insurance company which is carrying the risk.

(3) All fees and other charges for such treatment or service shall be limited to such charges as prevail in the same community for similar treatment of injured persons or like standard of living, and shall be subject to regulation by the Board.

(4) The liability of an employer for medical treatment as herein provided, shall not be affected by the fact that his employee was injured through the fault or negligence of a third party not in the same employ, unless and until notice of election to sue has been given as required by Section 30 (1) or suit has been brought against such third party without the giving of such notice. The employer shall, however, have a cause of action against such third party to recover any amounts paid by him for such medical treatment in like manner as provided in Section 30 (2) of this Act.

(5) Nothing contained in this section shall be construed to limit the right of the employee, to provide in any case, at his own expense, a consulting physician, surgeon, chiropractor or osteopath or any attending physician, surgeon, chiropractor or osteopath whom he may desire.

Sec. 7. Compensation for Disability.

Compensation for disability shall be paid to the employee as follows:

(1) Permanent total disability: In case of total disability adjudged to be permanent 65 per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof, shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

(2) Temporary total disability: In case of disability total in character but temporary in quality 65 per centum of the average weekly wages shall be paid to the employee during the continuance thereof.

(3) Permanent partial disability: In case of disability partial in character but permanent in quality the compensation shall be 65 per centum of the average weekly wages which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with subdivision (2) or subdivision (4) of this section respectively and shall be paid to the employee as follows:

(a) Arm lost, two hundred and eighty weeks' compensation, not to exceed \$9,800.00.

(b) Leg lost, two hundred and forty-eight weeks' compensation, not to exceed \$8,700.00.

(c) Hand lost, two hundred and twelve weeks' compensation, not to exceed \$7,500.00.

(d) Foot lost, one hundred and seventy-three weeks' compensation, not to exceed \$6,100.00.

(e) Eye lost, one hundred and forty weeks' compensation, not to exceed \$4,900.00.

(f) Thumb lost, fifty-one weeks' compensation, not to exceed \$1,800.00.

(g) First finger lost, twenty-eight weeks' compensation, not to exceed \$1,000.00.

(h) Great toe lost, twenty-six weeks' compensation, not to exceed \$900.00.

(i) Second and third finger lost, eighteen weeks' compensation, not to exceed \$600.00.

(j) Toe other than great toe lost, eight weeks' compensation, not to exceed \$300.00.

(k) Fourth finger lost, seven weeks' compensation, not to exceed \$300.00.

(l) Loss of hearing: Compensation for loss of hearing of one ear fifty-two weeks, not exceeding \$1,800.00. Compensation for loss of hearing of both ears, two hundred weeks', not to exceed \$7,000.00.

(m) Phalanges: Compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.

(n) Amputations. Amputation between the elbow and the wrist shall be considered equivalent to the loss of an arm, and amputation between the knee and ankle shall be considered equivalent to the loss of a leg.

(o) Binocular vision or per centum vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for loss of the eye.

(p) Two or more digits: Compensation for loss of two or more digits, or one or more phalanges of two or more digits, or a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot.

(q) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(r) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss

of use of the member.

(s) **Disfigurement:** The Board shall award proper and equitable compensation for serious facial or head disfigurement, not to exceed \$3,500.00.

(t) **Other cases:** In all other cases in this class of disability the compensation shall be 65 per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the Board on its own motion or upon application of any party in interest.

(u) In any case in which there shall be a loss of, or loss of use of more than one member or parts of more than one member set forth in paragraphs (a), to (r), of this subdivision, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, paragraph (p), of this subdivision shall apply.

(4) Any compensation to which any claimant would be entitled under subdivision (3) excepting subdivision (3) (t) shall, notwithstanding death arising from causes other than the injury, be payable to and for the benefit of the persons following:

(a) If there be a surviving wife or dependent husband and no child of the deceased under the age of eighteen years, to such wife or dependent husband.

(b) If there be a surviving wife or dependent husband and surviving child or children of the deceased under the age of eighteen years, one half shall be payable to the surviving wife or dependent husband and the other half to the surviving child or children.

(c) The Board may in its discretion require the appointment of a guardian for the purposes of receiving the compensation of the minor child.

In the absence of such a requirement the appointment for such a purpose shall not be necessary.

(d) If there be a surviving child or children of the deceased under the age of eighteen years, but no surviving wife or dependent husband, then to such child or children.

(e) An award for disability may be made after the death of the injured employee.

(5) **Temporary partial disability:** In case of temporary partial disability resulting in decrease of earning capacity the compensation shall be 65 per centum of the difference between the injured employee's average weekly wages before the injury and his wage earning capacity after the injury in the same or another employment, to be paid during the continuance of such disability, but shall not be paid for a period exceeding five years.

(6) **Injury increasing disability:** (a) If an employee receive an injury which of itself would only cause a specific permanent partial disability but which, combined with a previous disability, does in fact cause either permanent total disability, or permanent partial disability greater than would have been the result of the subsequent injury alone, the employer shall provide compensation only for the disability caused by the subsequent injury; Provided, however, that in addition to compensation for such subsequent permanent partial disability, and after the cessation of the payments for the prescribed period of weeks for both the permanent total disability and permanent partial disability, the employee shall be paid the remainder of the compensation that would be due for permanent total disability. Such additional compensation shall be paid out of the Second Injury Fund established in Section 32.

(b) In all other cases in which, following a previous disability, an employee receives an injury which is not covered by (a), of this subdivision, the employer shall provide compensation only for the disability caused by the subsequent injury. In determining compensation for the subsequent injury or for death resulting therefrom

the average weekly wages shall be such sums as will reasonably represent the earning capacity of the employee at the time of the subsequent injury.

(7) The wage-earning capacity of an injured employee in cases of partial disability under subdivision (3) (t), of this Section or under subdivision (5) of this Section shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity; Provided, however, that if the employee has no actual earnings or his actual earnings do not fairly and reasonably represent his wage-earning capacity, the Board may, in the interest of justice, fix such wage-earning capacity as shall be reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition, including the effect of disability as it may naturally extend into the future.

(8) In cases under subdivision (3) (t), and subdivision (5) of this Section, whenever the Board determines that it is for the best interests of an injured employee entitled to compensation, it may approve agreed settlements of the interested parties, discharging the liability of the employer for such compensation, notwithstanding the provisions of Section 14 (2) and Section 15 of this Act; Provided, that the sum so agreed upon shall be payable in installments as provided in Section 13 (2), which installments shall be subject to commutation under Section 13 (10); and Provided further, that if the employee should die from causes other than the injury after the Board has approved an agreed settlement as provided for herein, the sum so approved shall be payable, in the manner prescribed in this subdivision, to and for the benefit of the persons enumerated in subdivision (4) of this Section.

Sec. 8. Compensation for Death. If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

(1) Reasonable funeral expenses not exceeding \$500.00.

(2) If there be a surviving wife or dependent husband and no child of the deceased to such surviving wife or dependent husband 35 per centum of the average wages of the deceased, during widowhood, or dependent widowerhood, with two years' compensation in one sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of 15 per centum of such wages for each child; in the case of the death or remarriage of such surviving wife or dependent husband, if there be one surviving child of the deceased employee, such child shall have his compensation increased to 35 per centum of such wages, and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 35 per centum of such wages increased by 15 per centum of such wages for each child in excess of one; Provided, that the total amount payable shall in no case exceed 65 per centum of such wages. The Board may, in its discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such requirement the appointment of a guardian for such purposes shall not be necessary.

(3) If there be one surviving child of the deceased, but no surviving wife or dependent husband, then for the support of such child 35 per centum of the wages of the deceased; and if there be more than one surviving child of the deceased, but no widow or dependent husband, then for the support of such children, in equal parts 35 per centum of such wages increased by 15 per centum of such wages for each child in excess of one; Provided, that the total amount payable shall in no case exceed 65 per centum of such wages.

(4) If there be no surviving wife or dependent husband or child or if the amount payable to a surviving wife or dependent husband and to children shall be less in the aggregate than 65 per centum of the average wages of the deceased; then for the support of grandchildren or brothers and sisters, if dependent upon the deceased at the time of the injury, 15 per centum of such

wages for the support of each such person and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the injury, 25 per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between 65 per centum of such wages and the amount payable as hereinbefore provided to surviving wife or dependent husband and for the support of surviving child or children.

(5) In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than \$81.00 nor less than \$27.00 but the total weekly compensation shall not exceed the weekly wages of the deceased.

(6) All questions of dependency shall be determined as of the time of the injury.

(7) Aliens: Compensation under this Act to aliens not residents (or about to become nonresidents) of the United States or Canada shall be the same in amount as provided for residents, except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of one year prior to the date of the injury, and except that the Board may at its option, or upon the application of the insurance carrier shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Board.

Sec. 9. Determination of Pay. Except as otherwise provided in this Act, the average weekly wage of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation and shall be determined as follows:

(1) If the injured employee shall have worked in the employment in which he was working at the time of the injury, whether for the same or another

employer, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary for a six-day worker and two hundred sixty times the average daily wage or salary for a five-day worker, which he shall have earned in such employment during the days when so employed.

(2) If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings if a six-day worker, shall consist of three hundred times the average daily wage or salary, and, if a five-day worker, two hundred and sixty times the average daily wage or salary, which an employee of the same class working substantially the whole of such immediately preceding year in the same or in similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

(3) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in the employment in which he was working at the time of the injury, and of other employees of the same or most similar class working in the same or most similar employment in the same neighboring locality, or other employment of such employee, including the reasonable value of the services of the employee if engaged in self-employment, shall reasonably represent the annual earning capacity of the injured employee.

(4) The average weekly wages of an employee shall be one fifty-second part of his average annual earnings.

(5) If it be established that the injured employee was a minor when injured, and that under normal conditions his wages should be expected to increase during the period of disability the fact may be considered in arriving at his average weekly wages.

Sec. 10. Guardian for Minor or Incompetent. The Board may require the ap-

pointment by a court of competent jurisdiction, for any person who is mentally incompetent or a minor, or a guardian or other representative to receive compensation payable to such person under this Act and to exercise the powers granted to or to perform the duties required of such person under this Act.

Sec. 11. Notice of Injury or Death.

(1) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death (1) to the Board and (2) to the employer.

(2) Such notice shall be in writing, shall contain the name and address of the employee and a statement of the time, place, nature, and cause of the injury or death, and shall be signed by the employee or by some person on his behalf, or in case of death, by any person claiming to be entitled to compensation for such death or by a person on his behalf.

(3) Notice shall be given to the Board by delivering it or sending it by mail addressed to the Board's office, and to the employer by delivering it to him or by sending it by mail addressed to him at his last known place of business. If the employer is a partnership, such notice may be given to any partner, or if a corporation, such notice may be given to any agent or officer thereof upon whom legal process may be served or who is in charge of the business in the place where the injury occurred.

(4) Failure to give such notice shall not bar any claim under this Act (1) if the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier had knowledge of the injury or death and the Board determines that the employer or carrier has not been prejudiced by failure to give such notice, or (2) if the Board excuses such failure on the ground that for some satisfactory reason such notice could not be given; nor unless objection to such failure is raised before the Board at the first hearing of a claim for compensation in respect of such injury or death.

Sec. 12. Time for Filing of Claims. (1)

The right to compensation for disability under this Act shall be barred unless a claim therefor is filed within two years after the employee has knowledge of the nature of his disability and its relation to his employment and after disablement, and the right to compensation for death shall be barred unless a claim therefor is filed within one year after the death, except that if payment of compensation has been made without an award on account of such injury or death a claim may be filed within two years after the date of the last payment.

(2) Notwithstanding the provisions of subdivision (1) failure to file a claim within the period prescribed in such subdivision shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

(3) If a person who is entitled to compensation under this Act is mentally incompetent or a minor, the provisions of subdivision (1) shall not be applicable so long as such person has no guardian or other authorized representative, but shall be applicable in the case of a person who is mentally incompetent or a minor from the date of appointment of such guardian or other representative, or in the case of a minor, if no guardian is appointed before he becomes of age, from the date he becomes of age.

(4) Where recovery is denied to any person, in a suit brought at law or in admiralty to recover damages in respect of injury or death, on the ground that such person was an employee and that the defendant was an employer within the meaning of this Act and that such employer has secured compensation to such employee under this Act, the limitation of time prescribed in subdivision (1) shall begin to run only from the date of termination of such suit.

Sec. 13. Payment of Compensation.

(1) Compensation under this Act shall be paid periodically, promptly, and directly to the person entitled thereto, without an award, except where liability to pay compensation is controverted by the employer.

(2) The first installment of com-

compensation shall become due on the fourteenth day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Thereafter compensation shall be paid in installments, semi-monthly, except where the board determines that payment in installments should be made monthly or at some other period.

(3) Upon making the first payment, and upon suspension of payment for any cause, the employer shall immediately notify the Board, in accordance with a form prescribed by the Board, that payment of compensation has begun or has been suspended, as the case may be.

(4) If the employer controverts the right to compensation he shall file with the Board on or before the fourteenth day after he has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Board, stating that the right to compensation is controverted, the name of the claimant, the name of the employer, the date of the alleged injury or death, and the grounds upon which the right to compensation is controverted.

(5) If any installment of compensation payable without an award is not paid within fourteen days after it becomes due, as provided in subdivision (2) of this section, there shall be added to such unpaid installment an amount equal to 10 per centum thereof, which shall be paid at the same time as, but in addition to, such installment, unless notice is filed under subdivision (4) of this section, or unless such nonpayment is excused by the Board after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

(6) If any compensation, payable under the terms of an award, is not paid within fourteen days after it becomes due, there shall be added to such unpaid compensation an amount equal to 20 per centum thereof, which shall be paid at the same time as, but in addition to, such compensation, unless review of the compensation order making such award is had as provided in Section 20 and an interlocutory injunction staying pay-

ments is allowed by the court as provided therein.

(7) Within sixteen days after final payment of compensation has been made, the employer shall send to the Board a notice, in accordance with a form prescribed by the Board stating that such final payment has been made, the total amount of compensation paid, the name of the employee and of any other person to whom compensation has been paid, the date of the injury or death, and the date to which compensation has been paid. If the employer fails to so notify the Board within such time the Board shall assess against such employer a civil penalty in the amount of \$100.00.

(8) The Board (1) may upon its own initiative at any time in a case in which payments are being made without an award, and (2) shall in any case where right to compensation is controverted, or where payments of compensation have been stopped or suspended, upon receipt of notice from any person entitled to compensation, or from the employer, that the right to compensation is controverted, or that payments of compensation have been stopped or suspended, make such investigations, cause such medical examinations to be made, or hold such hearings, and take such further action as it considers will properly protect the rights of all parties.

(9) Whenever the Board deems it advisable it may require any employer to make a deposit with the Treasurer of the State of Alaska to secure the prompt and convenient payment of such compensation, and payments therefrom upon any awards shall be made upon order of the Board.

(10) If the employer has made advance payments of compensation, he shall be entitled to be reimbursed out of any unpaid installment or installments of compensation due.

(11) An injured employee or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall produce the same for inspection by the Board, whenever required.

(12) The total compensation pay-

able under this Act for injuries shall in no event exceed the sum of \$20,000.00; Provided, that this subdivision shall not apply to cases of permanent total disability or death; and Provided further, that in cases of disability compensable under paragraph (t) of subdivision (3) of Section 7 the total compensation for such disability, and for any temporary total disability or temporary partial disability sustained in addition thereto, shall not exceed in the aggregate the sum of \$17,000.00.

Sec. 14. Invalid Agreements... (1) No agreement by an employee to pay any portion of premium paid by his employer to a carrier or to contribute to a benefit fund or department maintained by such employer for the purpose of providing compensation or medical services and supplies as required by this Act shall be valid, and any employer who makes a deduction for such purpose from the pay of any employee entitled to the benefits of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000.00.

(2) No agreement by an employee to waive his right to compensation under this Act shall be valid.

Sec. 15. Assignment and Exemption from Claims of Creditors. No assignment, release, or commutation of compensation or benefits due or payable under this Act, except as provided by this Act, shall be valid, and such compensation and benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived.

Sec. 16. Compensation a Lien Against Assets. Every employee and every beneficiary entitled to compensation under the provisions of this Act shall have a lien for the full amount of such compensation, including costs and disbursements of suit and attorneys' fees therein allowed or fixed, upon all of the property in connection with the construction, preservation, maintenance or operation of which the work of such injured or deceased employee was being performed at the time of the injury or death of

such employee. For example: in the case of an employee injured or killed while engaged in mining or in any work connected with mining, the lien shall extend to the entire mine and all property used in connection therewith; and in the case of an employee injured or killed while engaged in fishing or in the packing, canning, or salting of fish, or other branch of the fish industry, the lien shall extend to the entire packing, fishing, salting or canning plant or establishment and all property used in connection therewith; and the same shall be the case with all other businesses, industries, works, occupations and employments. The lien herein provided for shall be prior and paramount and superior to any other lien of the property affected thereby, except liens for wages or materials as is now or may hereafter be provided by law, and shall be of equal rank with all such liens for wages or materials. The lien hereby provided for shall extend to and cover all right, title, interest and claim of the employer of, in, and to the property affected by such lien. Any person claiming a lien under this Act shall, within one year after the date of the injury from which the claim of compensation arises, file for record in the office of the recorder of the precinct in which the property affected by such lien is situated a notice of lien signed and verified by the claimant or someone on his or her behalf, and stating in substance, the name of the person injured or killed out of which injury or death the claim of compensation arises, the name of the employer of such injured or deceased person at the time of such injury or death, a description of the property affected or covered by the lien so claimed and the name of the owner or reputed owner of such property.

The lien for compensation herein provided may be enforced by a suit in equity as in the case of the enforcement of other liens upon real or personal property, at any time within ten months after the cause of action shall arise. Nothing in this Section contained shall be deemed to prevent an attachment of property as security for the payment of any compensation as in this Act provided.

Sec. 17. Collection of Defaulted Payments. In case of default by the em-

ployer in the payment of compensation due under any award of compensation for a period of thirty days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the Board making the compensation order or a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in Section 18, the Board shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the Board may, in its discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the District Court of Alaska. Such supplementary order of the Board shall be final, and the court shall upon the filing of the copy enter judgment for the amount declared in default by the supplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final proceedings to execute the judgment may be had by writ of execution in the form used by the court in suits at common law in actions of assumpsit. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

Sec. 18. Procedure in Respect of Claims. (1) Subject to the provisions of Section 12 a claim for compensation may be filed with the Board in accordance with its regulations at any time after the first seven days of disability following any injury, or at any time after death, and the Board shall have full power and authority to hear and determine all questions in respect of such claim.

(2) Within ten days after such claim is filed the Board, in accordance with its regulations, shall notify the employer and any other person (other than the claimant), whom the Board considers an interested party, that a claim has been filed. Such notice may be served personally upon the employer or

other person or sent to such employer or person by registered mail.

(3) The Board shall make or cause to be made such investigations as it considers necessary in respect of the claim, and upon application of any interested party shall order a hearing thereon. If a hearing on such claim is ordered the Board shall give the claimant and other interested parties at least ten days notice of such hearing, served personally upon the claimant and other interested parties or sent to such claimant and other interested parties by registered mail, and shall within twenty days after such hearing is had, by order, reject the claim or make an award in respect of the claim. If no hearing is ordered within twenty days after notice is given as provided in subdivision (2), the Board shall, by order reject the claim or make an award in respect of the claim.

(4) At such hearing the claimant and the employer may each present evidence in respect of such claim and may be represented by any person authorized in writing for such purpose.

(5) The order rejecting the claim or making the award (referred to in this Act as a compensation order) shall be filed in the office of the Board, and a copy thereof shall be sent by registered mail to the claimant and to the employer at the last known address of each.

(6) An award of compensation for disability may be made after the death of an injured employee.

(7) An injured employee claiming or entitled to compensation shall submit to such physical examination by a duly qualified physician as the Board may require. The place or places shall be reasonably convenient for the employee. Such physician or physicians as the employee, employer, or carrier may select and pay for may participate in an examination if the employee, employer, or carrier so requests. Proceedings shall be suspended and no compensation be payable for any period during which the employee may refuse to submit to examination.

Sec. 19. Presumptions. In any proceeding for the enforcement of a claim for compensation under this Act it shall

be presumed, in the absence of substantial evidence to the contrary:

(1) That the claim comes within the provisions of this Act.

(2) That sufficient notice of such claim has been given.

(3) That the injury was not occasioned solely by the intoxication of the injured employee.

(4) That the injury was not occasioned by the willful intention of the injured employee to injure or kill himself or another.

Sec. 20. Review of Compensation Order. (1) A compensation order shall become effective when filed in the office of the Board as provided in Section 18, and, unless proceedings for the suspension or setting aside of such order are instituted as provided in subdivision (3) of this Section, shall become final at the expiration of the thirtieth day thereafter.

(2) If an application for review is made to the Board within ten days from the date of an award, made by less than all the members, the full Board, if the first hearing was not held before the full Board, shall review the evidence, or, if deemed advisable, hear the parties at issue and the representatives and witnesses as soon as practicable, and shall make an award and file the same with the findings of fact on which it is based, and shall send a copy thereof to each of the parties forthwith.

(3) If not in accordance with law, a compensation order may be suspended or set aside, in whole or in part, through injunction proceedings mandatory or otherwise, brought by any party in interest against the Board, instituted in the District Court. The payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless upon application for an interlocutory injunction the court on hearing, after not less than three days' notice to the parties in interest and the Board, allows the stay of such payments, in whole or in part, where irreparable damage would otherwise ensue to the employer. The order of the court allowing any such stay shall contain a specific finding, based upon evidence sub-

mitted to the court and identified by reference thereto, that such irreparable damage would result to the employer, and specifying the nature of the damage.

(4) If any employer or his officers or agents fails to comply with a compensation order making an award, that has become final, any beneficiary of such award or the Board making the order, may apply for the enforcement of the order of the District Court. If the court determines that the order was made and served in accordance with law, and that such employer or his officers or agents have failed to comply therewith, the court shall enforce obedience to the order by writ of injunction or by other proper process, mandatory or otherwise, to enjoin upon such person and his officers and agents compliance with the order.

(5) Proceedings for suspending, setting aside, or enforcing a compensation order, whether rejecting a claim or making an award, shall not be instituted otherwise than as provided in this Section and Section 17.

Sec. 21. Modification of Awards. Upon its own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the Board, it may, at any time prior to one year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to one year after the rejection of a claim, review a compensation case in accordance with the procedure prescribed in respect of claims in Section 18, and in accordance with such Section issue a new compensation order which may terminate, continue, reinstate, increase, or decrease such compensation, or award compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made effective from the date of the injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensa-

tion, in such manner and by such method as may be determined by the Board.

Sec. 22. Procedure Before the Board.

(1) In making an investigation or inquiry or conducting a hearing the Board shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this Act; but may make such investigation or inquiry or conduct such hearing in such manner as to best ascertain the rights of the parties. Declarations of a deceased employee concerning the injury in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the injury.

(2) Hearings before the Board shall be open to the public and shall be stenographically reported, if requested.

Sec. 23. Witnesses. No person shall be required to attend as a witness in any proceeding before the Board at a place more than one hundred miles from his place of residence, unless his lawful mileage and fee for one day's attendance shall be first paid or tendered to him; but the testimony of any witness may be taken by deposition or interrogatories according to the rules of practice of the District Court.

Sec. 24. Witness Fees. Witnesses summoned in a proceeding before the Board or whose depositions are taken shall receive the same fees and mileage as witnesses in the District Court.

Sec. 25. Alaska Workmen's Compensation Board. (1) A Board is hereby created which shall be known as the "Alaska Workmen's Compensation Board", to be composed of the following three members: The Commissioner of Labor and one representative each of industry and labor, the latter two members to be appointed by the Governor. The Commissioner of Labor shall be Chairman of the Board, and shall be the executive officer of the Board, and shall be empowered to perform all acts necessary to carry into effect all provisions of this Act.

(2) The Commissioner of Labor may appoint a deputy to act for him and

such deputy shall thereby exercise the authority of the member for the purposes of this Act.

(3) Two members shall constitute a quorum and the action taken by any two members shall be considered the action of the full Board.

(4) The Board may make rules not inconsistent with this Act for carrying out the provisions hereof. Process and procedure under this Act shall be as summary and simple as reasonably may be. The Board or any member thereof shall have the power for the purposes of this Act to subpoena witnesses, administer or cause to be administered oaths, and to examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to questions in dispute. The District Court, on application of the Board or any member thereof, shall enforce, by proper proceedings, the attendance and testimony of witnesses and the production and examination of books, papers and records.

(5) The Board shall have the authority to make rules regulating and supervising the medical care provided in this Act. In addition to the reports required of physicians under the provisions of Section 6 (1), the Board may direct any physician or hospital rendering medical treatment or service under the provisions of this Act to furnish to the Board periodic reports of such treatment or services on forms to be procured from the Board for that purpose.

Sec. 26. Fees for Services. (1) Fees for legal services rendered in respect of a claim shall not be valid unless approved by the Board, and such fees shall be not less than 25 per centum on the first \$1,000.00 of compensation or part thereof, and 10 per centum of all sums in excess of \$1,000.000 of compensation. Whenever the Board advises that a claim has been controverted, in whole or in part, the Board may direct the fees for legal services be paid by the employer or carrier in addition to compensation awarded, and such fees may be allowed only on the amount of compensation controverted and awarded. Whenever the Board advises a claim has not been controverted, but further advises that

bona fide legal services have been rendered in respect of the claim, then the Board shall direct the payment of such fees out of the compensation awarded.

In determining the amount of fees the Board shall take into consideration the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries.

(2) Any person (1) who receives any fee, other consideration, or any gratuity on account of services so rendered, unless such consideration or gratuity is approved by the Board or such court, or (2) who makes it a business to solicit employment for a lawyer or for himself in respect of any claim or award for compensation, shall be guilty of a misdemeanor, and upon conviction thereof, shall, for each offense, be punished by fine of not more than \$1,000.00 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

(3) If an employer shall fail to file timely notice of controversy or shall fail to pay compensation within 15 days after such became due or shall otherwise resist the payment of compensation, and if claimant shall have employed an attorney in the successful prosecution of his claim, the Board shall make an award to reimburse the claimant for his costs of such proceedings, including a reasonable attorney's fee, which award shall be in addition to compensation ordered.

(4) If any proceedings are had for review of any compensation order before any court, the court may allow or increase an attorney's fees, which fees shall be in addition to compensation ordered and shall be paid as the court may direct.

Sec. 27. Record of Injury or Death. Every employer shall keep a record in respect of any injury to an employee. Such record shall contain such information of disease, other disability, or death in respect of such injury as the Board may require, and shall be available to inspection by the Board or by any State authority at such times and under such conditions as the Board may by regula-

tion prescribe.

Sec. 28. Reports. (1) Within ten days from the date the employer has knowledge of any injury or death or from the date that the employer has knowledge of a disease or infection in respect of such injury, the employer shall send to the Board a report setting forth (1) the name, address, and business of the employer; (2) the name, address, and occupation of the employee; (3) the cause and nature of the injury or death; (4) the year, month, day, and hour when and the particular locality where the injury or death occurred; and (5) such other information as the Board may require.

(2) Additional reports in respect of such injury and of the condition of such employee shall be sent by the employer to the Board at such times and in such manner as the Board may prescribe.

(3) Any report provided for in subsection (1) or (2) shall not be evidence of any fact stated in such report in any proceedings in respect of any such injury or death on account of which the report is made.

(4) The mailing of any such report and copy in a stamped envelope, within the time prescribed in subdivisions (1) or (2), to the Board, shall be a compliance with this Section.

(5) Any employer who fails or refuses to send any report required of him by this section shall be subject to a civil penalty not to exceed \$500.00 for each such failure or refusal.

(6) Where the employer or the carrier has been given notice, or the employer (or his agent in charge of the business in the place where the injury occurred) or the carrier has knowledge, of any injury or death of an employee and fails, neglects, or refuses to file a report thereof as required by the provisions of subdivision (1) of this Section, the limitations in subdivision (1) of Section 12 of this Act shall not begin to run against the claim of the injured employee or his dependents entitled to compensation, or in favor of either the employer or the carrier, until such report shall have been furnished as required by the provisions of subdivision

(1) of this Section.

Sec. 29. Penalty for Misrepresentation.

Any person who wilfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this Act shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not to exceed \$1,000.00 or by imprisonment of not to exceed one year, or by both such fine and imprisonment.

Sec. 30. Compensation for Injuries Where Third Persons Are Liable. (1) If, on account of a disability or death for which compensation is payable under this Act, the person entitled to such compensation believes that some person other than the employer is liable in damages, he may elect, by giving notice to the Board in such manner as the Board may provide, to receive such compensation or to recover damages against such third person.

(2) Acceptance of such compensation under an award in a compensation order filed by the Board shall operate as an assignment to the employer of all right of the person entitled to compensation to recover damages against such third person.

(3) The payment of such compensation into the fund established in Section 32 shall operate as an assignment to the employer of all right of the legal representative of the deceased (herein referred to as "representative") to recover damages against such third person, whether or not the representative has notified the Board of his election.

(4) Such employer on account of such assignment may either institute proceedings for the recovery of such damages or may compromise with such third person either without or after instituting such proceeding.

(5) Any amount recovered by such employer on account of such assignment, whether or not as the result of a compromise, shall be distributed as follows:

(a) The employer shall retain an amount equal to:

(1) The expense incurred by him in respect to such proceedings

or compromise (including a reasonable attorney's fee as determined by the Board);

(2) the cost of all benefits actually furnished by him to the employee under Section 6;

(3) all amounts paid as compensation;

(4) the present value of all amounts thereafter payable as compensation, such present value to be computed in accordance with a schedule prepared by the Board, and the present value of the cost of all benefits thereafter to be furnished under Section 6, to be estimated by the Board, and the amounts so computed and estimated to be retained by the employer as a trust fund to pay such compensation and the cost of such benefits as they become due, and to pay any sum finally remaining in excess thereof to the person entitled to compensation or to the representative; and

(b) The employer shall pay any excess to the person entitled to compensation or to the representative.

(6) If the person entitled to compensation or the representative elects to recover damages against such third person and notifies the Board of his election and institutes proceedings within the period prescribed in Section 12, the employer shall be required to pay as compensation under this Act a sum equal to the excess of the amount which the Board determines is payable on account of such injury or death over the amount recovered against such third person.

(7) If a compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this Act, the employer shall be liable for compensation as determined in subdivision (5) only if such compromise is made with his written approval.

(8) The Board may, if the person entitled to compensation under this Act is a minor, make any election required under subdivision (1) of this Section,

or may authorize the parent or guardian of the minor to make such election.

(9) Where the employer is insured and the insurance carrier has assumed the payment of the compensation, the insurance carrier shall be subrogated to all the rights of the employer under this Section.

Sec. 31. Penalty for Failure to Secure Payment of Compensation. (1) Any employer required to secure the payment of compensation under this Act who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such fine or imprisonment as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any compensation or other benefit which may accrue under the said Act in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by Section 43-3-18 ACLA 1949.

(2) Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one of his employees has been injured within the purview of this Act, and with intent to avoid the payment of compensation under this Act to such employee or his dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such penalty of imprisonment as well as jointly liable with such corporation for such fine.

(3) This Section shall not affect

any other liability of the employer under this Act.

Sec. 32. Second Injury Fund. (1) There is hereby created a Second Injury Fund, to be administered by the Commissioner of Labor in accordance with the orders and awards of the Board.

(2) Whenever an employee shall suffer a compensable injury which results in permanent partial disability the employer, or his insurance carrier, shall, in addition to the compensation provided for, pay into the second injury fund a lump sum, equal to two per centum (2%) of the total compensation to which the employee is entitled for the said permanent partial disability, the said sum to be paid into such second injury fund as soon as the total amount of the permanent partial disability payable for the particular injury is determined by the Board; provided, however, the provision of this subsection shall be waived in and during any calendar year when the encumbered balance in the second injury fund is equal to or exceeds the sum of \$100,000.00 on January 1 of said year.

(3) The sums required to be paid into the second injury fund shall be paid for the sole benefit of those entitled to participate therein under the provisions of this Act, the same to be paid by the Commissioner of Labor in accordance with the orders and awards of the Board.

(4) In case a deposit or payment has been made into such second injury fund, and it is later shown that there are other beneficiaries or that the beneficiaries designated are entitled to further or greater benefits, or, if deposit or payment has been made by mistake or inadvertence or under such circumstances that justice requires a refund thereof, the Board is hereby authorized to refund such deposit or payment.

(5) The Board is authorized to direct and provide the vocational retraining and rehabilitation of permanently disabled persons, whose condition is a result of an injury compensable under this Act, by making cooperative arrangements with insurance carriers, private organizations and institutions or State, Federal or Territorial agencies. The expense of such retraining or rehabili-

tation shall be paid out of that portion of the second injury fund as shall exceed the sum of Ten Thousand (\$10,000.00) Dollars. Such persons shall be entitled to receive compensation from the second injury fund for maintenance, in such sum as the Board deems necessary, during the period of retraining and rehabilitation, not exceeding \$50.00 per month; Provided, however, that the total expenditures for maintenance, training, rehabilitation and necessary transportation shall not exceed \$3,000.00 for any one person.

(6) All amounts collected as civil penalties provided in this Act shall be paid into the second injury fund.

Sec. 33. Coverage. (1) Compensation shall be payable under this Act in respect of disability or death of an employee.

(2) No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the wilful intention of the employee to injure or kill himself or another.

(3) Part time baby sitters, cleaning persons, harvest help and similar part time or transient help shall be exempted from coverage hereunder as defined by regulations adopted by the Board.

Sec. 34. Presumption of Direct Payment: Notice: Posting: Places of Posting: Form of Notice. Every such employer shall be conclusively presumed to have elected to pay compensation directly to employees for injuries sustained arising out of and in the course of the employment according to the provisions hereof, unless and until notice in writing of insurance, stating the name and address of the insurance company and the period of insurance, shall have been given to the employee. Such notice shall be posted and kept on the premises of the employer or on the premises where the employer's operations are being carried on in three conspicuous places; one of which shall be at the office of the employer; one at the mess house or boarding house, if there be one, and the third in some conspicuous place on the premises or works. Such recorded and posted notice shall be substantially in the following form, and the signature

shall be witnessed by two witnesses.

Employer's Notice of Insurance

To the employees of the undersigned:

You and each of you are hereby notified that the undersigned is insured in the Insurance Company, whose address is and that the period covered by such insurance is in accordance with the terms, conditions and provisions to pay compensation to employees of the undersigned for injuries received as provided in the Act of the State of Alaska, known as the "Alaska Workmen's Compensation Act".

Signed

Witness:

Sec. 35. Article to Be Part of Every Contract of Hire: Construction. This article shall constitute part of every contract of hire, express or implied, and the same shall be constructed as an agreement on the part of the employer to pay and on the part of the employee to accept compensation in the manner hereby provided for all personal injuries sustained.

Sec. 36. Insurance or Proof of Financial Ability: Deposit of Security. Every employer under this Act, except those exempted, shall either insure and keep insured his liability hereunder in some insurance company or association duly authorized to transact the business of Workmen's Compensation Insurance in this State, or shall furnish the Board satisfactory proof of his financial ability to pay direct the compensation provided in this Act. In the latter case the Board may, in its discretion, require the deposit of an acceptable security, indemnity or bond to secure the payment of compensation liabilities as they are incurred.

Sec. 37. Filing Evidence of Compliance: Exception: Failure to Comply. Every employer under this Act, except those exempted, shall, within ten days after this Act takes effect, file with the Board, in the form prescribed by it, and thereafter within ten days after the termination of his insurance by expiration or cancellation, evidence of his com-

pliance with the insurance provisions of this Act; Provided, that this requirement shall not apply to employers who have procured from the Board certification of their financial ability to pay compensation directly without insurance.

Any employer hereafter coming under the compensation provisions of this Act shall, in like manner, file like evidence of such compliance.

If such employer fails, refuses, or neglects to comply with the provision of this Section, he shall be subject to the penalties provided in Section 28 for failure to report accidents; but nothing herein contained shall be construed as affecting the rights conferred upon injured employees or their beneficiaries under the Act.

Sec. 38. Failure to Secure Payment: Common Law Defenses Abolished: Presumptions. If such employer fails to comply as required by Section 36 herein, such employer shall not escape liability for personal injury or death sustained by an employee of such employer when the injury sustained arises out of and in the usual course of the employment because:

(1) The employee assumed the risks inherent to or incidental to or arising out of his or her employment; or the risks arising from the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising from the failure of an employer to furnish reasonably safe tools or appliances, or because the employer exercises reasonable care in selecting reasonably competent employees in the business;

(2) That the injury was caused by the negligence of a coemployee;

(3) That the employee was negligent, unless and except it shall appear that such negligence was wilful and with intent to cause the injury, or was the result of wilful intoxication on the part of the injured party;

(4) In such actions by an employee against an employer for personal injury sustained arising out of and in the course of the employment where the employer has failed to insure or to provide the security as required by Section

36 herein, it shall be presumed that the injury to the employee was the first result growing out of the negligence of the employer; and that such negligence was the proximate cause of the injury; and in such case the burden of proof shall rest upon the employer to rebut the presumption of negligence;

(5) The limits of liability shall not apply when an action is brought under this section.

Sec. 39. Self-Insurance Certificates: Revocation: New Certificate. Whenever an employer has complied with the provisions of this Act relating to self-insurance, the Board shall issue to such employer a certificate which shall remain in force for a period fixed by the Board, but the Board may, upon at least ten days' notice and a hearing, revoke the certificate of such employer upon satisfactory proof that such employer is no longer entitled thereto.

At any time after such revocation the Board may grant a new certificate to the employer, upon his petition and satisfactory proof of his financial ability as provided in this Act.

Sec. 40. Insurance Policies: Approval by Insurance Commissioner: Presumption of Coverage: Limitation of Liability: Policy Provision. (1) Approval by Insurance Commissioner. No insurer shall enter into or issue any policy of insurance under this Act until its policy form shall have been submitted to and approved by the Insurance Commissioner. The Insurance Commissioner shall not approve the policy form of any insurance company until such company shall file with it the certificate of the Commissioner of Insurance showing that such company is authorized to transact the business of Workmen's Compensation Insurance in the State. The filing of a policy form by any insurance company with the Board for approval shall constitute, on the part of such company, a conclusive and unqualified acceptance of each and all of the provisions of this Act, and an agreement by it to be bound thereby.

(2) **Presumption of Coverage.** All policies of insurance companies insuring the payment of compensation under this

Act shall be conclusively presumed to cover all the employees and the entire compensation liability of the insured employer employed at or in connection with the business of the employer carried on, maintained, or operated at the location or locations set forth in such policy or agreement.

(3) **Limitation of Liability Void.** Any provision in any such policy attempting to limit or modify the liability of the company issuing the same shall be wholly void except as provided in the preceding paragraph.

(4) **Required Policy Provisions.** Every policy of any such company shall be held and deemed to have written therein, without being actually written into the policy, the following provisions:

(a) **Extent of Coverage.** The insurer hereby assumes in full all the obligations to pay physician's fees, nurse's charges, hospital services, hospital supplies, medicine, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits imposed upon the insured under the provisions of this Act.

(b) **Subjection to Act.** That the policy is made subject to the provisions of this Act and the provisions of said Act relative to the liability of the insured employer to pay physician's fees, nurses's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits to and for said employees or beneficiaries, the acceptance of such liability by the insured employer, the adjustment, trial and adjudication of claims for such physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, compensation or death benefits and the liability of the insurer to pay the same are and shall be a part of this policy contract as fully and complet—17 as if written

herein.

(c) **Notice to Employer.** That, as between the insurer and the employee or his or her beneficiaries, notice to or knowledge of the occurrence of the injury on the part of the insured employer shall be notice or knowledge thereof, as the case may be, on the part of the insurer; that the jurisdiction of the insured employer for the purpose of this Act shall be the jurisdiction of the insurer, and the insurer shall, in all things, be bound by and shall be subject to the orders, awards, judgments and decrees rendered against the insured employer under said Act.

(d) **Conditions of Payment.** That the insurer will promptly pay to the person or persons entitled to the same, all benefits conferred by this Act, including physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, and all installments of compensation or death benefits that may be awarded or agreed upon under said Act; that the obligation of the insurer shall not be affected by any default of the insured employer after the injury, or by any default in giving of any notice required by this policy; that the policy is and shall be construed to be a direct promise by the insurer to the person entitled by the insurer to the person entitled to physician's fees, nurse's charges, fees for hospital services, charges for medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available and hospital supplies, charges for burial, compensation or death benefits, and shall be enforceable in the name of such person or persons.

(e) **Notice of Termination.** That any termination of the policy by cancellation shall not be effective as to the employees of the insured employer covered thereby until ten days after written notice of such termination has been received by the Board. Provided, however, that if the employer has secured insurance with another insurer

ance carrier, cancellation shall be effective as of the date of such other coverage.

(f) **Joint Liability.** That all claims for compensation, death benefits, physician's fees, nurse's charges, hospital services, hospital supplies, medicines, prosthetic devices, transportation charges to the nearest point where adequate medical facilities are available, burial expenses, may be made directly against either the employer or the insurer, or both, and the order or award of the Board may be made against either the employer or the insurer or both.

(g) **Revocation by Commissioner.** That if any insurer shall fail or refuse to pay any final award or judgment (except during the pendency of an appeal) rendered against it, or its insured, or if it shall fail or refuse to comply with any provisions of this Act, the Insurance Commissioner shall

revoke the approval of the policy form, and shall not accept any further proofs of insurance from it until it shall have paid said award or judgment or complied with the violated provision of this Act, and shall have resubmitted its policy form and received the approval thereof by the Insurance Commissioner.

Sec. 41. Insurance Rates. If the provisions of this Act require any insurance rates adjustments, said adjustments must be conditioned upon strict compliance with the rate regulation provisions of State law.

Sec. 42. Repealer. Sections 43-3-1 through 43-3-39 ACLA 1949, as amended by Chapter 104, SLA 1949, Chapter 133, SLA 1951, Chapter 24, SLA 1953, Chapter 60, SLA 1953 and Chapter 141, SLA 1955 are hereby repealed.

Sec. 43. Effective Date. This Act shall take effect July 1, 1959.

Approved May 7, 1959

CHAPTER 194

AN ACT

Relating to corporate ownership of shares in banks, amending Section 3.167 of Chapter 129, SLA 1951; and providing for an effective date.

(H.B. 135)

Be it enacted by the Legislature of the State of Alaska:

Section 1. Section 3.167 of Chapter 129, SLA 1951 is hereby amended to read as follows:

Sec. 3.167. Corporate Ownership of Shares in Banks Prohibited. It shall be unlawful for any corporation, foreign or domestic, to purchase or own in any manner whatsoever the capital stock, or any of it, of any corporation which is subject to the regulation of the Board, provided, that when it shall become a bona fide necessity to avoid loss, for a creditor corporation to accept shares of stock in any such regulated corporation in payment of indebtedness owing to such creditor corporation, such shares of stock may be so accepted, but in all such cases the shares of the regulated corporation

shall be disposed of in accordance with regulations of the Board; Provided, however, notwithstanding any other provisions of this Act, any domestic bank holding company organized pursuant to Chapter 126, SLA 1957, notwithstanding Sec. 3 thereof, and registered under The Bank Holding Company Act of 1956 (70 Stat. 133), which shall maintain its principal office and place of business in this state and conduct its principal operations in this State, may acquire and own all or any portion of the voting shares or other capital stock of, or all or substantially all of the assets of, any corporation which is subject to the regulations of the Federal Reserve Board and the Alaska Banking Board; Provided, further, any such holding company may be required to post a bond, in an amount equal to the par