



LAWS OF ALASKA

1968

Source

CSHB 651

Chapter No.

178

AN ACT

Relating to the payment of workmen's compensation in cases of injury when combined with a preexisting condition; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.30.205 is repealed and re-enacted to read:

Sec. 23.30.205. INJURY COMBINED WITH PREEXISTING IMPAIRMENT. (a) If an employee who has a permanent physical impairment from any cause or origin incurs a subsequent disability by injury arising out of and in the course of his employment resulting in compensation liability for disability that is substantially greater by reason of the combined effects of the preexisting impairment and subsequent injury or by reason of the aggravation of the preexisting impairment than that which would have resulted from the subsequent injury alone, the employer or his insurance carrier shall in the first instance pay all awards of compensation provided by this chapter, but the employer or his insurance carrier shall be reimbursed from the second injury fund for all compensation payments subsequent to those payable for the first 104 weeks of disability.

(b) If the subsequent injury of the employee results in the death of the employee and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the employer or his insurance carrier shall in the first instance pay the compensation prescribed by this chapter, but he or his insurance carrier shall be reimbursed from the second injury fund for all compensation payable in excess of 104 weeks.

(c) In order to qualify under this section for reimbursement from the second injury fund, the employer must establish by written records that the employer had

knowledge of the permanent physical impairment before the subsequent injury and that the employee was hired or retained in employment after the employer acquired that knowledge.

(d) As used in this section, "permanent physical impairment" means any permanent condition, whether congenital or due to injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee should become unemployed. No condition may be considered a "permanent physical impairment" unless

(1) it is one of the following conditions:

- (A) epilepsy,
- (B) diabetes,
- (C) cardiac disease,
- (D) arthritis,
- (E) amputated foot, leg, arm or hand,
- (F) loss of sight of one or both eyes or a partial loss of uncorrected vision of more than 75 per cent bilaterally,
- (G) residual disability from poliomyelitis,
- (H) cerebral palsy,
- (I) multiple sclerosis,
- (J) Parkinson's disease,
- (K) cerebral vascular accident,
- (L) tuberculosis,
- (M) silicosis,
- (N) haemophilia,
- (O) chronic osteomyelitis,
- (P) osteoporosis,
- (Q) ankylosis of joints,
- (R) hyperinsulism,
- (S) muscular dystrophies,
- (T) arteriosclerosis,
- (U) thrombophlebitis,
- (V) varicose veins,
- (W) heavy metal poisoning,

- (X) ionizing radiation injury,
- (Y) compressed air sequelae,
- (Z) ruptured intervertebral disk,
- (AA) spondylolisthesis, or

(2) it would support a rating of disability of 200 weeks or more if evaluated according to standards applied in compensation claims.

(e) The second injury fund may not be bound as to any question of law or fact by reason of an award or an adjudication to which it was not a party or in relation to which it was not notified at least three weeks before the award or adjudication, that it might be subject to liability for the injury or death.

(f) An employer or its carrier shall notify the commissioner of labor of any possible claim against the second injury fund as soon as practicable, but in no event later than 100 weeks after the employer or its carrier have knowledge of the injury or death.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.