

1 IN THE SENATE

BY RULES COMMITTEE  
BY REQUEST OF THE LEGISLATIVE COUNCIL

2 SENATE BILL NO. 22

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIRST LEGISLATURE - FIRST SESSION

A BILL

5 For an Act entitled: "An Act establishing a new Alaska Workmen's  
6 Compensation program, repealing Sections  
7 43-3-1 through 43-3-39, ACLA 1949, as  
8 amended by Chapter 104, SLA 1949, Chapter  
9 133, SLA 1951, Chapter 24, SLA 1953, Chap-  
10 ter 60, SLA 1953, and Chapter 141, SLA 1955;  
11 setting an effective date."  
12

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

14 Section 1. SHORT TITLE. This Act may be cited as "Alaska  
15 Workmen's Compensation Act."

16 Sec. 2. DEFINITION. When used in this Act --

17 (1) The term "adoption" or "adopted" means legal adop-  
18 tion prior to the time of the injury.

19 (2) The term "Board" means the Alaska Workmen's Com-  
20 pensation Board to be established within the Department of Labor  
21 for the purpose of administering provisions of this Act.

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

24 (4) "Child" shall include a posthumous child, a child  
25 legally adopted prior to the injury of the employee, a child in  
26 relation to whom the deceased employee stood in loco parentis for  
27 at least one year prior to the time of injury, and a stepchild or  
28 acknowledged illegitimate child dependent upon the deceased, but  
29 does not include married children unless wholly dependent on him.

1 "Grandchild" means a child as above defined of a child as above  
2 defined. "Brother" and "sister" include stepbrothers and step-  
3 sisters, half brothers and half sisters, and brothers and sisters  
4 by adoption, but does not include married brothers nor married  
5 sisters unless wholly dependent on the employee. "Child", "grand-  
6 child", "brother", and "sister" include only persons who are under  
7 eighteen years of age, and also persons who, though eighteen years  
8 of age or over, are wholly dependent upon the deceased employee and  
9 incapable of self-support by reason of mental or physical disability.

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

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

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

18 (8) Wherever the term "employer" is used in this Act,  
19 reference is had to the State or any of its political subdivisions  
20 and to any person or persons, partnership, joint stock company,  
21 association or corporation employing one or more persons in con-  
22 nection with any business or industry coming within the scope  
23 hereof and carried on in this State, and whenever the term "em-  
24 ployee" is used herein, reference is had to an employee employed  
25 by an employer as above defined.

26 Every executive officer elected or appointed and em-  
27 powered in accordance with the charter and by-laws of a corpora-  
28 tion, other than an official of a municipal corporation or a  
29 charitable, religious, educational or other non-profit corporation,

1 tion, shall be an employee of such corporation under this Act.  
2 Notwithstanding any other provision of this Act, any such execu-  
3 tive officer of a municipal corporation or of a charitable, relig-  
4 ious, educational, or any other non-profit corporation may be  
5 brought within the coverage of its insurance contract by any such  
6 corporation by specifically including such executive officer in  
7 such contract of insurance and the election to bring such execu-  
8 tive officer within the coverage shall continue for the period  
9 such contract of insurance is in effect, and during such period  
10 such executive officers thus brought within the coverage of the  
11 insurance contract shall be employees of such corporation under  
12 this Act.

13 (9) The term "injury" means accidental injury or death  
14 arising out of and in the course of employment, and such occupa-  
15 tional disease or infection as arises naturally out of such em-  
16 ployment or as naturally or unavoidably results from such acci-  
17 dental injury, and includes any injury caused by the willful act  
18 of a third person directed against an employee because of his  
19 employment.

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

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

28 (12) the term "parent" includes step-parents and par-  
29 ents by adoption, parents-in-law, and any person who for more than

1 three years prior to the death of the deceased employee stood in  
2 the place of a parent to him, if dependent on the injured employee.

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

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

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

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

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

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

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

27 Sec. 3. COVERAGE. (1) Every employer shall be liable for  
28 and shall secure the payment to his employees of the compensation  
29 payable under Sections 6, 7, and 8. In the case of an employer

1 who is a subcontractor, the contractor shall be liable for and  
2 shall secure the payment of such compensation to employees of the  
3 subcontractor unless the subcontractor has secured such payment.

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

6 Sec. 4. EXCLUSIVENESS OF LIABILITY. The liability of an  
7 employer prescribed in Section 3 shall be exclusive and in place  
8 of all other liability of such employer to the employee, his legal  
9 representative, husband or wife, parents, dependents, next of kin,  
10 and anyone otherwise entitled to recover damages from such employ-  
11 er at law or in admiralty on account of such injury or death, ex-  
12 cept that if an employer fails to secure payment of compensation  
13 as required by this Act, an injured employee, or his legal rep-  
14 resentative in case death results from the injury, may elect to  
15 claim compensation under this Act, or to maintain an action at law  
16 or in admiralty for damages on account of such injury or death.  
17 In such action the defendant may not plead as a defense that the  
18 injury was caused by the negligence of a fellow servant, nor that  
19 the employee assumed the risk of his employment, nor that the in-  
20 jury was due to the contributory negligence of the employee.

21 Sec. 5. TIME FOR COMMENCEMENT OF COMPENSATION: MAXIMUM AND  
22 MINIMUM COMPENSATION. (1) No compensation shall be allowed for  
23 the first three days of the disability, except the benefits pro-  
24 vided for in Section 6; Provided, however, that in case the injury  
25 results in disability of more than twenty-eight days, the compen-  
26 sation shall be allowed from the date of the disability.

27 (2) Compensation for temporary disability or permanent  
28 partial disability shall not exceed \$100.00 per week and shall not  
29 be less than \$18.00 per week; Provided, however, that, if the

1 employee's average weekly wages, as computed under Section 9, are  
2 less than \$18.00 per week, he shall receive as compensation for  
3 temporary disability his average weekly wages.

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

10 Sec. 6. MEDICAL SERVICES AND SUPPLIES. (1) The employer  
11 shall furnish such medical, surgical, and other attendance or  
12 treatment, nurse and hospital service, medicine, crutches, and  
13 apparatus, for such period as the nature of the injury or the pro-  
14 cess of recovery may require. Whenever medical care is required,  
15 the injured employee may designate any physician who is practic-  
16 ing within the State to render such care. Upon procuring the ser-  
17 vices of such physician, the injured employee shall give proper  
18 notification of his selection to the employer within a reasonable  
19 time after first being treated. If for any reason during the period  
20 when medical care is required, the employee wishes to change to  
21 another physician, he may do so in accordance with rules prescrib-  
22 ed by the Board. If the employee is unable to designate a phys-  
23 ician and the emergency nature of the injury requires immediate  
24 medical care, or if he does not desire to designate a physician  
25 and so advises the employer, the employer shall designate the  
26 physician. The foregoing provision shall not, however, deprive  
27 the employee from subsequently designating a physician for contin-  
28 uance of required medical care. No claim for medical or surgical  
29 treatment shall be valid and enforceable, as against such employer

1 unless within twenty days following the first treatment the phys-  
2 ician giving such treatment or the employee receiving such treat-  
3 ment furnishes to the employer and the Board notice of such injury  
4 and treatment, preferably on a form or forms prescribed by the  
5 Board. The Board may, however, excuse the failure to furnish such  
6 notice within twenty days when it finds it to be in the interest  
7 of justice to do so, and it may, upon application by a party in  
8 interest, make an award for the reasonable value of such medical  
9 or surgical treatment so obtained by the employee. If at any  
10 time during such period the employee unreasonably refuses to sub-  
11 mit to medical or surgical treatment, the Board may, by order,  
12 suspend the payment of further compensation during such time as  
13 such refusal continues, and no compensation shall be paid at any  
14 time during the period of such suspension, unless the circumstances  
15 justified the refusal.

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

27 (3) All fees and other charges for such treatment or  
28 service shall be limited to such charges as prevail in the same  
29 community for similar treatment of injured persons or like stand-

1 ard of living, and shall be subject to regulation by the Board.

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

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

16 Sec. 7. COMPENSATION FOR DISABILITY. Compensation for dis-  
17 ability shall be paid to the employee as follows:

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

26 (2) Temporary total disability: In case of disability  
27 total in character but temporary in quality 65 percentum of the  
28 average weekly wages shall be paid to the employee during the con-  
29 tinuance thereof.

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

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

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

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

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

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

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

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

22 (h) Great toe lost, twenty-six weeks' compensa-  
23 tion, not to exceed \$900.00.

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

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

28 (k) Fourth finger lost, seven weeks' compensa-  
29 tion, not to exceed \$300.00.

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

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

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

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

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

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

27 (r) Partial loss or partial loss of use: Compens-  
28 sation for permanent partial loss or loss of use of a member  
29 may be for proportionate loss or loss of use of the member.

1 (s) Disfigurement: The Board shall award proper  
2 and equitable compensation for serious facial or head dis-  
3 figurement, not to exceed \$3,500.00.

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

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

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

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

28 (b) If there be a surviving wife or dependent  
29 husband and surviving child or children of the deceased under

1 the age of eighteen years, one half shall be payable to the  
2 surviving wife or dependent husband and the other half to the  
3 surviving child or children.

4 (c) The Board may in its discretion require the  
5 appointment of a guardian for the purposes of receiving the  
6 compensation of the minor child. In the absence of such a  
7 requirement the appointment for such a purpose shall not be  
8 necessary.

9 (d) If there be a surviving child or children of  
10 the deceased under the age of eighteen years, but no surviv-  
11 ing wife or dependent husband, then to such child or children,

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

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

21 (6) Injury increasing disability: (a) If an employee  
22 receive an injury which of itself would only cause a specific  
23 permanent partial disability but which, combined with a previous  
24 disability, does in fact cause either permanent total disability,  
25 or permanent partial disability greater than would have been the  
26 result of the subsequent injury alone, the employer shall provide  
27 compensation only for the disability caused by the subsequent in-  
28 jury; Provided, however, that in addition to compensation for such  
29 subsequent permanent partial disability, and after the cessation

1 of the payments for the prescribed period of weeks for both the  
2 permanent total disability and permanent partial disability, the  
3 employee shall be paid the remainder of the compensation that  
4 would be due for permanent total disability. Such additional com-  
5 pensation shall be paid out of the Second Injury Fund established  
6 in Section 32.

7 (b) In all other cases in which, following a pre-  
8 vious disability, an employee receives an injury which is not  
9 covered by (a), of this subdivision, the employer shall pro-  
10 vide compensation only for the disability caused by the sub-  
11 sequent injury. In determining compensation for the subse-  
12 quent injury or for death resulting therefrom the average  
13 weekly wages shall be such sums as will reasonably represent  
14 the earning capacity of the employee at the time of the sub-  
15 sequent injury.

16 (7) The wage-earning capacity of an injured employee in  
17 cases of partial disability under subdivision (3) (t), of this  
18 Section or under subdivision (5) of this Section shall be deter-  
19 mined by his actual earnings if such actual earnings fairly and  
20 reasonably represent his wage-earning capacity; Provided, however,  
21 that if the employee has no actual earnings or his actual earnings  
22 do not fairly and reasonably represent his wage-earning capacity,  
23 the Board may, in the interest of justice, fix such wage-earning  
24 capacity as shall be reasonable, having due regard to the nature  
25 of his injury, the degree of physical impairment, his usual em-  
26 ployment, and any other factors or circumstances in the case which  
27 may affect his capacity to earn wages in his disabled condition,  
28 including the effect of disability as it may naturally extend in-  
29 to the future.

1 (8) In cases under subdivision (3) (t), and subdivision  
2 (5) of this Section, whenever the Board determines that it is for  
3 the best interests of an injured employee entitled to compensation,  
4 it may approve agreed settlements of the interested parties, dis-  
5 charging the liability of the employer for such compensation, not-  
6 withstanding the provisions of Section 14 (2) and Section 15 of  
7 this Act; Provided, that the sum so agreed upon shall be payable  
8 in installments as provided in Section 13 (2), which installments  
9 shall be subject to commutation under Section 13 (10); and Provided  
10 further, that if the employee should die from causes other than the  
11 injury after the Board has approved an agreed settlement as pro-  
12 vided for herein, the sum so approved shall be payable, in the  
13 manner prescribed in this subdivision, to and for the benefit of  
14 the persons enumerated in subdivision (4) of this Section.

15 Sec. 8. COMPENSATION FOR DEATH. If the injury causes death,  
16 the compensation shall be known as a death benefit and shall be  
17 payable in the amount and to or for the benefit of the persons  
18 following:

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

20 (2) If there be a surviving wife or dependent husband  
21 and no child of the deceased to such surviving wife or dependent  
22 husband 35 per centum of the average wages of the deceased, dur-  
23 ing widowhood, or dependent widowerhood, with two years' compen-  
24 sation in one sum upon remarriage; and if there be a surviving  
25 child or children of the deceased, the additional amount of 15 per  
26 centum of such wages for each child; in the case of the death or  
27 remarriage of such surviving wife or dependent husband, if there  
28 be one surviving child of the deceased employee, such child shall  
29 have his compensation increased to 35 per centum of such wages,

1 and if there be more than one surviving child of the deceased em-  
2 ployee, to such children, in equal parts, 35 per centum of such  
3 wages increased by 15 per centum of such wages for each child in  
4 excess of one; Provided, that the total amount payable shall in  
5 no case exceed 65 per centum of such wages. The Board may, in its  
6 discretion, require the appointment of a guardian for the purpose  
7 of receiving the compensation of a minor child. In the absence of  
8 such requirement the appointment of a guardian for such purposes  
9 shall not be necessary.

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

19 (4) If there be no surviving wife or dependent husband  
20 or child or if the amount payable to a surviving wife or dependent  
21 husband and to children shall be less in the aggregate than 65  
22 per centum of the average wages of the deceased; then for the  
23 support of grandchildren or brothers and sisters, if dependent up-  
24 on the deceased at the time of the injury, 15 per centum of such  
25 wages for the support of each such person and for the support of  
26 each parent, or grandparent, of the deceased if dependent upon him  
27 at the time of the injury, 25 per centum of such wages during such  
28 dependency. But in no case shall the aggregate amount payable  
29 under this subdivision exceed the difference between 65 per centum

1 of such wages and the amount payable as hereinbefore provided to  
2 surviving wife or dependent husband and for the support of surviv-  
3 ing child or children.

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

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

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

23 Sec. 9. DETERMINATION OF PAY. Except as otherwise provided  
24 in this Act, the average weekly wage of the injured employee at  
25 the time of the injury shall be taken as the basis upon which to  
26 compute compensation and shall be determined as follows:

27 (1) If the injured employee shall have worked in the em-  
28 ployment in which he was working at the time of the injury, whether  
29 for the same or another employer, during substantially the whole

1 of the year immediately preceding his injury, his average annual  
2 earnings shall consist of three hundred times the average daily  
3 wage or salary for a six-day worker and two hundred sixty times  
4 the average daily wage or salary for a five-day worker, which he  
5 shall have earned in such employment during the days when so em-  
6 ployed.

7 (2) If the injured employee shall not have worked in  
8 such employment during substantially the whole of such year, his  
9 average annual earnings if a six-day worker, shall consist of  
10 three hundred times the average daily wage or salary, and, if a  
11 five-day worker, two hundred and sixty times the average daily  
12 wage or salary, which an employee of the same class working sub-  
13 stantially the whole of such immediately preceding year in the  
14 same or in similar employment in the same or a neighboring place  
15 shall have earned in such employment during the days when so em-  
16 ployed.

17 (3) If either of the foregoing methods of arriving at  
18 the average annual earnings of the injured employee cannot reason-  
19 ably and fairly be applied, such average annual earnings shall be  
20 such sum as, having regard to the previous earnings of the injur-  
21 ed employee in the employment in which he was working at the time  
22 of the injury, and of other employees of the same or most similar  
23 class working in the same or most similar employment in the same  
24 neighboring locality, or other employment of such employee, in-  
25 cluding the reasonable value of the services of the employee if  
26 engaged in self-employment, shall reasonably represent the annual  
27 earning capacity of the injured employee.

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

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

5 Sec. 10. GUARDIAN FOR MINOR OR INCOMPETENT. The Board may  
6 require the appointment by a court of competent jurisdiction, for  
7 any person who is mentally incompetent or a minor, or a guardian  
8 or other representative to receive compensation payable to such  
9 person under this Act and to exercise the powers granted to or to  
10 perform the duties required of such person under this Act.

11 Sec. 11. NOTICE OF INJURY OR DEATH. (1) Notice of an injury  
12 or death in respect of which compensation is payable under this  
13 Act shall be given within thirty days after the date of such in-  
14 jury or death (1) to the Board and (2) to the employer.

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

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

29 (4) Failure to give such notice shall not bar any claim

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

10       Sec. 12. TIME FOR FILING OF CLAIMS. (1) The right to com-  
11 pensation for disability under this Act shall be barred unless a  
12 claim therefor is filed within two years after the employee has  
13 knowledge of the nature of his disability and its relation to his  
14 employment and after disablement, and the right to compensation for  
15 death shall be barred unless a claim therefor is filed within one  
16 year after the death, except that if payment of compensation has  
17 been made without an award on account of such injury or death a  
18 claim may be filed within two years after the date of the last  
19 payment.

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

26       (3) If a person who is entitled to compensation under  
27 this Act is mentally incompetent or a minor, the provisions of  
28 subdivision (1) shall not be applicable so long as such person has  
29 no guardian or other authorized representative, but shall be

1 applicable in the case of a person who is mentally incompetent or  
2 a minor from the date of appointment of such guardian or other  
3 representative, or in the case of a minor, if no guardian is ap-  
4 pointed before he becomes of age, from the date he becomes of age.

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

13 Sec. 13. PAYMENT OF COMPENSATION. (1) Compensation under  
14 this Act shall be paid periodically, promptly, and directly to the  
15 person entitled thereto, without an award, except where liability  
16 to pay compensation is controverted by the employer.

17 (2) The first installment of compensation shall become  
18 due on the fourteenth day after the employer has knowledge of the  
19 injury or death, on which date all compensation then due shall be  
20 paid. Thereafter compensation shall be paid in installments, semi-  
21 monthly, except where the Board determines that payment in install-  
22 ments should be made monthly or at some other period.

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

28 (4) If the employer controverts the right to compensa-  
29 tion he shall file with the Board on or before the fourteenth day

1 after he has knowledge of the alleged injury or death, a notice,  
2 in accordance with a form prescribed by the Board, stating that  
3 the right to compensation is controverted, the name of the claim-  
4 ent, the name of the employer, the date of the alleged injury or  
5 death, and the grounds upon which the right to compensation is  
6 controverted.

7 (5) If any installment of compensation payable with-  
8 out an award is not paid within fourteen days after it becomes  
9 due, as provided in subdivision (2) of this section, there shall  
10 be added to such unpaid installment an amount equal to 10 per  
11 centum thereof, which shall be paid at the same time as, but in  
12 addition to, such installment, unless notice is filed under sub-  
13 division (4) of this section, or unless such nonpayment is excus-  
14 ed by the Board after a showing by the employer that owing to con-  
15 ditions over which he had no control such installment could not  
16 be paid within the period prescribed for the payment.

17 (6) If any compensation, payable under the terms of an  
18 award, is not paid within fourteen days after it becomes due,  
19 there shall be added to such unpaid compensation an amount equal  
20 to 20 per centum thereof, which shall be paid at the same time as,  
21 but in addition to, such compensation, unless review of the com-  
22 pensation order making such award is had as provided in Section 20  
23 and an interlocutory injunction staying payments is allowed by the  
24 court as provided therein.

25 (7) Within sixteen days after final payment of compen-  
26 sation has been made, the employer shall send to the Board a no-  
27 tice, in accordance with a form prescribed by the Board stating  
28 that such final payment has been made, the total amount of compen-  
29 sation paid, the name of the employee and of any other person to

1 whom compensation has been paid, the date of the injury or death,  
2 and the date to which compensation has been paid. If the employer  
3 fails to so notify the Board within such time the Board shall  
4 assess against such employer a civil penalty in the amount of  
5 \$100.00.

6 (8) The Board (1) may upon its own initiative at any  
7 time in a case in which payments are being made without an award,  
8 and (2) shall in any case where right to compensation is contro-  
9 verted, or where payments of compensation have been stopped or sus-  
10 pended, upon receipt of notice from any person entitled to compen-  
11 sation, or from the employer, that the right to compensation is  
12 controverted, or that payments of compensation have been stopped  
13 or suspended, make such investigations, cause such medical exam-  
14 inations to be made, or hold such hearings, and take such further  
15 action as it considers will properly protect the rights of all  
16 parties.

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

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

25 (11) An injured employee or in case of death his de-  
26 pendants or personal representative, shall give receipts for pay-  
27 ment of compensation to the employer paying the same and such em-  
28 ployer shall produce the same for inspection by the Board, when-  
29 ever required.

1           (12) The total compensation payable under this Act for  
2 injuries shall in no event exceed the sum of \$20,000.00; Provided,  
3 that this subdivision shall not apply to cases of permanent total  
4 disability or death; and Provided further, that in cases of dis-  
5 ability compensable under paragraph (t) of subdivision (3) of  
6 Section 7 the total compensation for such disability, and for any  
7 temporary total disability or temporary partial disability sus-  
8 tained in addition thereto, shall not exceed in the aggregate the  
9 sum of \$17,000.00.

10           Sec. 14. INVALID AGREEMENTS. (1) No agreement by an em-  
11 ployee to pay any portion of premium paid by his employer to a  
12 carrier or to contribute to a benefit fund or department main-  
13 tained by such employer for the purpose of providing compensation  
14 or medical services and supplies as required by this Act shall be  
15 valid, and any employer who makes a deduction for such purpose  
16 from the pay of any employee entitled to the benefits of this Act  
17 shall be guilty of a misdemeanor and upon conviction thereof shall  
18 be punished by a fine of not more than \$1,000.00.

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

21           Sec. 15. ASSIGNMENT AND EXEMPTION FROM CLAIMS OF CREDITORS.  
22 No assignment, release, or commutation of compensation or benefits  
23 due or payable under this Act, except as provided by this Act,  
24 shall be valid, and such compensation and benefits shall be ex-  
25 empt from all claims of creditors and from levy, execution, and  
26 attachment or other remedy for recovery or collection of a debt,  
27 which exemption may not be waived.

28           Sec. 16. COMPENSATION A. LIEN AGAINST ASSETS. Every employee  
29 and every beneficiary entitled to compensation under the provi-

1 sions of this Act shall have a lien for the full amount of such  
2 compensation, including costs and disbursements of suit and att-  
3 orneys' fees therein allowed or fixed, upon all of the property in  
4 connection with the construction, preservation, maintenance or op-  
5 eration of which the work of such injured or deceased employee was  
6 being performed at the time of the injury or death of such employ-  
7 ee. For example: in the case of an employee injured or killed  
8 while engaged in mining or in any work connected with mining, the  
9 lien shall extend to the entire mine and all property used in con-  
10 nection therewith; and in the case of an employee injured or kill-  
11 ed while engaged in fishing or in the packing, canning, or salting  
12 of fish, or other branch of the fish industry, the lien shall ex-  
13 tend to the entire packing, fishing, salting or canning plant or  
14 establishment and all property used in connection therewith; and  
15 the same shall be the case with all other businesses, industries,  
16 works, occupations and employments. The lien herein provided for  
17 shall be prior and paramount and superior to any other lien of the  
18 property affected thereby, except liens for wages or materials as  
19 is now or may hereafter be provided by law, and shall be of equal  
20 rank with all such liens for wages or materials. The lien  
21 hereby provided for shall extend to and cover all right, title,  
22 interest and claim of the employer of, in, and to the property  
23 affected by such lien. Any person claiming a lien under this Act  
24 shall, within one year after the date of the injury from which the  
25 claim of compensation arises, file for record in the office of the  
26 recorder of the precinct in which the property affected by such  
27 lien is situated a notice of lien signed and verified by the claim-  
28 ant or someone on his or her behalf, and stating in substance, the  
29 name of the person injured or killed out of which injury or death

1 the claim of compensation arises, the name of the employer of  
2 such injured or deceased person at the time of such injury or  
3 death, a description of the property affected or covered by the  
4 lien so claimed and the name of the owner or reputed owner of  
5 such property.

6 The lien for compensation herein provided may be enforced by  
7 a suit in equity as in the case of the enforcement of other liens  
8 upon real or personal property, at any time within ten months af-  
9 ter the cause of action shall arise. Nothing in this Section con-  
10 tained shall be deemed to prevent an attachment of property as  
11 security for the payment of any compensation as in this Act pro-  
12 vided.

13 Sec. 17. COLLECTION OF DEFAULTED PAYMENTS. In case of de-  
14 fault by the employer in the payment of compensation due under  
15 any award of compensation for a period of thirty days after the  
16 compensation is due and payable, the person to whom such compen-  
17 sation is payable may, within one year after such default, make  
18 application to the Board making the compensation order or a sup-  
19 plementary order declaring the amount of the default. After in-  
20 vestigation, notice, and hearing, as provided in Section 18, the  
21 Board shall make a supplementary order, declaring the amount of  
22 the default, which shall be filed in the same manner as the com-  
23 pensation order. In case the payment in default is an installment  
24 of the award, the Board may, in its discretion, declare the whole  
25 of the award as the amount in default. The applicant may file a  
26 certified copy of such supplementary order with the clerk of the  
27 District Court of Alaska. Such supplementary order of the Board  
28 shall be final, and the court shall upon the filing of the copy  
29 enter judgment for the amount declared in default by the supple-

1 mentary order if such supplementary order is in accordance with  
2 law. Review of the judgment so entered may be had as in civil  
3 suits for damages at common law. Final proceedings to execute the  
4 judgment may be had by writ of execution in the form used by the  
5 court in suits at common law in actions of assumpsit. The court  
6 shall modify such judgment to conform to any later compensation  
7 order upon presentation of a certified copy thereof to the court.

8       Sec. 18. PROCEDURE IN RESPECT OF CLAIMS. (1) Subject to the  
9 provisions of Section 12 a claim for compensation may be filed with  
10 the Board in accordance with its regulations at any time after the  
11 first seven days of disability following any injury, or at any time  
12 after death, and the Board shall have full power and authority to  
13 hear and determine all questions in respect of such claim.

14       (2) Within ten days after such claim is filed the  
15 Board, in accordance with its regulations, shall notify the employ-  
16 er and any other person (other than the claimant), whom the Board  
17 considers an interested party, that a claim has been filed. Such  
18 notice may be served personally upon the employer or other person,  
19 or sent to such employer or person by registered mail.

20       (3) The Board shall make or cause to be made such in-  
21 vestigations as it considers necessary in respect of the claim,  
22 and upon application of any interested party shall order a hearing  
23 thereon. If a hearing on such claim is ordered the Board shall  
24 give the claimant and other interested parties at least ten days  
25 notice of such hearing, served personally upon the claimant and  
26 other interested parties or sent to such claimant and other inter-  
27 ested parties by registered mail, and shall within twenty days  
28 after such hearing is had, by order, reject the claim or make an  
29 award in respect of the claim. If no hearing is ordered within

1 twenty days after notice is given as provided in subdivision (2),  
2 the Board shall, by order reject the claim or make an award in  
3 respect of the claim.

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

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

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

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

23 Sec. 19. PRESUMPTIONS. In any proceeding for the enforce-  
24 ment of a claim for compensation under this Act it shall be pre-  
25 sumed, in the absence of substantial evidence to the contrary:

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

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

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

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

6 Sec. 20. REVIEW OF COMPENSATION ORDER. (1) A compensation  
7 order shall become effective when filed in the office of the Board  
8 as provided in Section 18, and, unless proceedings for the suspen-  
9 sion or setting aside of such order are instituted as provided in  
10 subdivision (3) of this Section, shall become final at the expira-  
11 tion of the thirtieth day thereafter.

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

20 (3) If not in accordance with law, a compensation order  
21 may be suspended or set aside, in whole or in part, through injunc-  
22 tion proceedings mandatory or otherwise, brought by any party in  
23 interest against the Board, instituted in the District Court. The  
24 payment of the amounts required by an award shall not be stayed  
25 pending final decision in any such proceeding unless upon applica-  
26 tion for an interlocutory injunction the court on hearing, after  
27 not less than three days' notice to the parties in interest and  
28 the Board, allows the stay of such payments, in whole or in part,  
29 where irreparable damage would otherwise ensue to the employer.

1 The order of the court allowing any such stay shall contain a spec-  
2 ific finding, based upon evidence submitted to the court and iden-  
3 tified by reference thereto, that such irreparable damage would re-  
4 sult to the employer, and specifying the nature of the damage.

5 (4) If any employer or his officers or agents fails to  
6 comply with a compensation order making an award, that has become  
7 final, any beneficiary of such award or the Board making the order,  
8 may apply for the enforcement of the order of the District Court.  
9 If the court determines that the order was made and served in ac-  
10 cordance with law, and that such employer or his officers or ag-  
11 ents have failed to comply therewith, the court shall enforce ob-  
12 edience to the order by writ of injunction or by other proper pro-  
13 cess, mandatory or otherwise, to enjoin upon such person and his  
14 officers and agents compliance with the order.

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

19 Sec. 21. MODIFICATION OF AWARDS. Upon its own initiative,  
20 or upon the application of any party in interest, on the ground of  
21 a change in conditions or because of a mistake in a determination  
22 of fact by the Board, it may, at any time prior to one year after  
23 the date of the last payment of compensation, whether or not a com-  
24 pensation order has been issued, or at any time prior to one year  
25 after the rejection of a claim, review a compensation case in ac-  
26 cordance with the procedure prescribed in respect of claims in  
27 Section 18, and in accordance with such Section issue a new com-  
28 pensation order which may terminate, continue, reinstate, increase,  
29 or decrease such compensation, or award compensation. Such new

1 order shall not affect any compensation previously paid, except  
2 that an award increasing the compensation rate may be made effec-  
3 tive from the date of the injury, and if any part of the compen-  
4 sation due or to become due is unpaid, an award decreasing the  
5 compensation rate may be made effective from the date of the in-  
6 jury, and any payment made prior thereto in excess of such decreas-  
7 ed rate shall be deducted from any unpaid compensation, in such  
8 manner and by such method as may be determined by the Board.

9       Sec. 22. PROCEDURE BEFORE THE BOARD. (1) In making an in-  
10 vestigation or inquiry or conducting a hearing the Board shall not  
11 be bound by common law or statutory rules of evidence or by tech-  
12 nical or formal rules of procedure, except as provided by this Act;  
13 but may make such investigation or inquiry or conduct such hearing  
14 in such manner as to best ascertain the rights of the parties.  
15 Declarations of a deceased employee concerning the injury in re-  
16 spect of which the investigation or inquiry is being made or the  
17 hearing conducted shall be received in evidence and shall, if cor-  
18 roborated by other evidence, be sufficient to establish the in-  
19 jury.

20       (2) Hearings before the Board shall be open to the pub-  
21 lic and shall be stenographically reported, if requested.

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

29       Sec. 24. WITNESS FEES. Witnesses summoned in a proceeding  
SB #22 Engrossed as amended       -30-

1 before the Board or whose depositions are taken shall receive  
2 the same fees and mileage as witnesses in the District Court.

3 Sec. 25. ALASKA WORKMEN'S COMPENSATION BOARD. (1) A Board  
4 is hereby created which shall be known as the "Alaska Workmen's  
5 Compensation Board," to be composed of the following three mem-  
6 bers: The Insurance Commissioner, the Attorney General and the  
7 Commissioner of Labor. The Commissioner of Labor shall be Chair-  
8 man of the Board, and shall be the executive officer of the Board,  
9 and shall be empowered to perform all acts necessary to carry into  
10 effect all provisions of this Act.

11 (2) Any member of the Board may appoint a deputy to  
12 act for him and such deputy shall thereby exercise the authority  
13 of the member for the purposes of this Act.

14 (3) Two members shall constitute a quorum and the  
15 action taken by any two members or their deputies shall be con-  
16 sidered the action of the full Board.

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

28 (5) The Board shall have the authority to make rules  
29 regulating and supervising the medical care provided in this Act.

1 In addition to the reports required of physicians under the pro-  
2 visions of Section 6 (1), the Board may direct any physician or  
3 hospital rendering medical treatment or service under the provi-  
4 sions of this Act to furnish to the Board periodic reports of such  
5 treatment or services on forms to be procured from the Board for  
6 that purpose.

7 Sec. 26. FEES FOR SERVICES. (1) Fees for legal services  
8 rendered in respect of a claim shall not be valid unless approved  
9 by the Board, and such fees shall be not less than 25 per centum  
10 on the first \$1,000.00 of compensation or part thereof, and 10 per  
11 centum of all sums in excess of \$1,000.00 of compensation. When-  
12 ever the Board advises that a claim has been controverted, in  
13 whole or in part, the Board may direct the fees for legal services  
14 be paid by the employer or carrier in addition to compensation  
15 awarded, and such fees may be allowed only on the amount of com-  
16 pensation controverted and awarded. Whenever the Board advises a  
17 claim has not been controverted, but further advises that bona  
18 fide legal services have been rendered in respect of the claim,  
19 then the Board shall direct the payment of such fees out of the  
20 compensation awarded.

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

25 (2) Any person (1) who receives any fee, other consid-  
26 eration, or any gratuity on account of services so rendered, un-  
27 less such consideration or gratuity is approved by the Board or  
28 such court, or (2) who makes it a business to solicit employment  
29 for a lawyer or for himself in respect of any claim or award for

1 compensation, shall be guilty of a misdemeanor, and upon convic-  
2 tion thereof, shall, for each offense, be punished by fine of not  
3 more than \$1,000.00 or by imprisonment not to exceed one year, or  
4 by both such fine and imprisonment.

5 (3) If an employer shall fail to file timely notice of  
6 controversy or shall fail to pay compensation within 15 days after  
7 such became due or shall otherwise resist the payment of compen-  
8 sation, and if claimant shall have employed an attorney in the  
9 successful prosecution of his claim, the Board shall make an award  
10 to reimburse the claimant for his costs of such proceedings, in-  
11 cluding a reasonable attorney's fee, which award shall be in addi-  
12 tion to compensation ordered.

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

17 Sec. 27. RECORD OF INJURY OR DEATH. Every employer shall  
18 keep a record in respect of any injury to an employee. Such record  
19 shall contain such information of disease, other disability, or  
20 death in respect of such injury as the Board may require, and shall  
21 be available to inspection by the Board or by any State authority  
22 at such times and under such conditions as the Board may by regu-  
23 lation prescribe.

24 Sec. 28. REPORTS. (1) Within ten days from the date of any  
25 injury or death or from the date that the employer has knowledge of  
26 a disease or infection in respect of such injury, the employer shall  
27 send to the Board a report setting forth (1) the name, address, and  
28 business of the employer; (2) the name, address, and occupation of  
29 the employee; (3) the cause and nature of the injury or death;

1 (4) the year, month, day, and hour when and the particular locality  
2 where the injury or death occurred; and (5) such other information  
3 as the Board may require.

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

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

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

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

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

27 Sec. 29. PENALTY FOR MISREPRESENTATION. Any person who wil-  
28 fully makes any false or misleading statement or representation  
29 for the purpose of obtaining any benefit or payment under this Act

1 shall be guilty of a misdemeanor and on conviction thereof shall  
2 be punished by a fine of not to exceed \$1,000.00 or by imprisonment  
3 of not to exceed one year, or by both such fine and imprisonment.

4 Sec. 30. COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE  
5 LIABLE. (1) If an account of a disability or death for which  
6 compensation is payable under this Act the person entitled to such  
7 compensation determines that some person other than the employer  
8 is liable in damages, he may elect, by giving notice to the Board  
9 in such manner as the Board may provide, to receive such compen-  
10 sation or to recover damages against such third person.

11 (2) Acceptance of such compensation under an award in a  
12 compensation order filed by the Board shall operate as an assign-  
13 ment to the employer of all right of the person entitled to com-  
14 pensation to recover damages against such third person.

15 (3) The payment of such compensation into the fund es-  
16 tablished in Section 32 shall operate as an assignment to the em-  
17 ployer of all right of the legal representative of the deceased  
18 (herein referred to as "representative") to recover damages against  
19 such third person, whether or not the representative has notified  
20 the Board of his election.

21 (4) Such employer on account of such assignment may  
22 either institute proceedings for the recovery of such damages or  
23 may compromise with such third person either without or after in-  
24 stituting such proceeding.

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

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

29 (1) The expense incurred by him in respect

1 to such proceedings or compromise (including a reasonable  
2 attorney's fee as determined by the Board);

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

5 (3) all amounts paid as compensation;

6 (4) the present value of all amounts there-  
7 after payable as compensation, such present value to be  
8 computed in accordance with a schedule prepared by the  
9 Board, and the present value of the cost of all benefits  
10 thereafter to be furnished under Section 6, to be estim-  
11 ated by the Board, and the amounts so computed and estim-  
12 ated to be retained by the employer as a trust fund to  
13 pay such compensation and the cost of such benefits as  
14 they become due, and to pay any sum finally remaining in  
15 excess thereof to the person entitled to compensation or  
16 to the representative; and

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

19 (6) If the person entitled to compensation or the repre-  
20 sentative elects to recover damages against such third person and  
21 notifies the Board of his election and institutes proceedings with-  
22 in the period prescribed in Section 12, the employer shall be re-  
23 quired to pay as compensation under this Act a sum equal to the  
24 excess of the amount which the Board determines is payable on ac-  
25 count of such injury or death over the amount recovered against  
26 such third person.

27 (7) If a compromise with such third person is made by the  
28 person entitled to compensation or such representative of an amount  
29 less than the compensation to which such person or representative

1 would be entitled to under this Act, the employer shall be liable  
2 for compensation as determined in subdivision (5) only if such com-  
3 promise is made with his written approval.

4 (8) The Board may, if the person entitled to compensation  
5 under this Act is a minor, make any election required under sub-  
6 division (1) of this Section, or may authorize the parent or guard-  
7 ian of the minor to make such election.

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

12 Sec. 31. PENALTY FOR FAILURE TO SECURE PAYMENT OF COMPENSA-  
13 TION. (1) Any employer required to secure the payment of com-  
14 pensation under this Act who fails to secure such compensation  
15 shall be guilty of a misdemeanor and, upon conviction thereof,  
16 shall be punished by a fine of not more than \$1,000.00, or by im-  
17 prisonment for not more than one year, or by both such fine and  
18 imprisonment; and in any case where such employer is a corpora-  
19 tion, the president, secretary, and treasurer thereof shall be  
20 also severally liable to such fine or imprisonment as herein pro-  
21 vided for the failure of such corporation to secure the payment  
22 of compensation; and such president, secretary, and treasurer  
23 shall be severally personally liable, jointly with such corpora-  
24 tion, for any compensation or other benefit which may accrue un-  
25 der the said Act in respect to any injury which may occur to any  
26 employee of such corporation while it shall so fail to secure the  
27 payment of compensation as required by Section 43-3-18 ACLA 1949,

28 (2) Any employer who knowingly transfers, sells, en-  
29 cumbers, assigns, or in any manner disposes of, conceals, secretes,

1 or destroys any property belonging to such employer, after one of  
2 his employees has been injured within the purview of this Act, and  
3 with intent to avoid the payment of compensation under this Act to  
4 such employee or his dependents, shall be guilty of a misdemeanor  
5 and, upon conviction thereof, shall be punished by a fine of not  
6 more than \$1,000.00, or by imprisonment for not more than one year  
7 or by both such fine and imprisonment; and in any case where such  
8 employer is a corporation, the president, secretary, and treasurer  
9 thereof shall be also severally liable to such penalty of impris-  
10 onment as well as jointly liable with such corporation for such  
11 fine.

12 (3) This Section shall not affect any other liability of  
13 the employer under this Act.

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

17 (2) Whenever an employee shall suffer a compensable in-  
18 jury which results in permanent partial disability the employer, or  
19 his insurance carrier, shall, in addition to the compensation pro-  
20 vided for, pay into the second injury fund a lump sum, equal to  
21 two per centum (2%) of the total compensation to which the employee  
22 is entitled for the said permanent partial disability, the said  
23 sum to be paid into such second injury fund as soon as the total  
24 amount of the permanent partial disability payable for the partic-  
25 ular injury is determined by the Board; provided, however, the  
26 provision of this subsection shall be waived in and during any  
27 calendar year when the unencumbered balance in the second injury  
28 fund is equal to or exceeds the sum of \$100,000.00 on January 1  
29 of said year.

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

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

13 (5) The Board is authorized to direct and provide the  
14 vocational retraining and rehabilitation of permanently disabled  
15 persons, whose condition is a result of an injury compensable  
16 under this Act, by making cooperative arrangements with insurance  
17 carriers, private organizations and institutions or State, Fed-  
18 eral or Territorial agencies. The expense of such retraining or  
19 rehabilitation shall be paid out of that portion of the second  
20 injury fund as shall exceed the sum of Ten Thousand (\$10,000.00)  
21 Dollars. Such persons shall be entitled to receive compensation  
22 from the second injury fund for maintenance, in such sum as the  
23 Board deems necessary, during the period of retraining and rehab-  
24 ilitation, not exceeding \$50.00 per month; Provided, however, that  
25 the total expenditure for maintenance, training, rehabilitation  
26 and necessary transportation shall not exceed \$3,000.00 for any  
27 one person.

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



1 injuries received as provided in the Act of the State  
2 of Alaska, known as the "Alaska Workmen's Compensation  
3 Act".

4 Signed.....  
5 Witness: .....  
6 .....

7 Sec. 35. ARTICLE TO BE PART OF EVERY CONTRACT OF HIRE:

8 CONSTRUCTION: This article shall constitute part of every contract  
9 of hire, express or implied, and the same shall be construed as an  
10 agreement on the part of the employer to pay and on the part of  
11 the employee to accept compensation in the manner hereby provided  
12 for all personal injuries sustained.

13 Sec. 36. INSURANCE OR PROOF OF FINANCIAL ABILITY: DEPOSIT  
14 OF SECURITY. Every employer under this Act, except those exempt-  
15 ed, shall either insure and keep insured his liability hereunder  
16 in some insurance company or association duly authorized to trans-  
17 act the business of Workmen's Compensation Insurance in this  
18 State, or shall furnish the Board satisfactory proof of his fin-  
19 ancial ability to pay direct the compensation provided in this  
20 Act. In the latter case the Board may, in its discretion, require  
21 the deposit of an acceptable security, indemnity or bond to se-  
22 cure the payment of compensation liabilities as they are incurred.

23 Sec. 37. FILING EVIDENCE OF COMPLIANCE: EXCEPTION: FAILURE  
24 TO COMPLY. Every employer under this Act, except those exempted,  
25 shall, within ten days after this Act takes effect, file with the  
26 Board, in the form prescribed by it, and thereafter within ten  
27 days after the termination of his insurance by expiration or can-  
28 cellation, evidence of his compliance with the insurance provi-  
29 sions of this Act; Provided, that this requirement shall not

1 apply to employers who have procured from the Board certification  
2 of their financial ability to pay compensation directly without  
3 insurance.

4 Any employer hereafter coming under the compensation provi-  
5 sions of this Act shall, in like manner, file like evidence of  
6 such compliance.

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

13 Sec. 38. SELF-INSURANCE CERTIFICATES: REVOCATION: NEW  
14 CERTIFICATE. Whenever an employer has complied with the provisions  
15 of this Act relating to self-insurance, the Board shall issue to  
16 such employer a certificate which shall remain in force for a per-  
17 iod fixed by the Board, but the Board may, upon at least ten days'  
18 notice and a hearing, revoke the certificate of such employer up-  
19 on satisfactory proof that such employer is no longer entitled  
20 thereto.

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

24 Sec. 39. INSURANCE POLICIES: APPROVAL BY INSURANCE COMMIS-  
25 SIONER: PRESUMPTION OF COVERAGE: LIMITATION OF LIABILITY: POLICY  
26 PROVISIONS. (1) APPROVAL BY INSURANCE COMMISSIONER. No insurer  
27 shall enter into or issue any policy of insurance under this Act  
28 until its policy form shall have been submitted to and approved  
29 by the Insurance Commissioner. The Insurance Commissioner shall

1 not approve the policy form of any insurance company until such  
2 company shall file with it the certificate of the Commissioner of  
3 Insurance showing that such company is authorized to transact the  
4 business of Workmen's Compensation Insurance in the State. The  
5 filing of a policy form by any insurance company with the Board  
6 for approval shall constitute, on the part of such company, a con-  
7 clusive and unqualified acceptance of each and all of the provi-  
8 sions of this Act, and an agreement by it to be bound thereby.

9 (2) PRESUMPTION OF COVERAGE. All policies of insurance  
10 companies insuring the payment of compensation under this Act shall  
11 be conclusively presumed to cover all the employees and the entire  
12 compensation liability of the insured employer employed at or in  
13 connection with the business of the employer carried on, maintained,  
14 or operated at the location or locations set forth in such policy  
15 or agreement.

16 (3) LIMITATION OF LIABILITY VOID. Any provision in  
17 any such policy attempting to limit or modify the liability of  
18 the company issuing the same shall be wholly void except as pro-  
19 vided in the preceding paragraph.

20 (4) REQUIRED POLICY PROVISIONS. Every policy of any  
21 such company shall be held and deemed to have written therein,  
22 without being actually written into the policy, the following  
23 provisions:

24 (a) EXTENT OF COVERAGE. The insurer hereby assumes  
25 in full all the obligations to pay physicians' fees, nurse's  
26 charges, hospital services, hospital supplies, medicine,  
27 prosthetic devices, transportation charges to the nearest  
28 point where adequate medical facilities are available, burial  
29 expenses, compensation or death benefits imposed upon the

1 insured under the provisions of this Act.

2 (b) SUBJECTION TO ACT. That the policy is made  
3 subject to the provisions of this Act and the provisions of  
4 said Act relative to the liability of the insured employer  
5 to pay physician's fees, nurses's charges, hospital services,  
6 hospital supplies, medicines, prosthetic devices, transpor-  
7 tation charges to the nearest point where adequate medical  
8 facilities are available, burial expenses, compensation or  
9 death benefits to and for said employees or beneficiaries,  
10 the acceptance of such liability by the insured employer, the  
11 adjustment, trial and adjudication of claims for such physi-  
12 cian's fees, nurse's charges, hospital services, hospital  
13 supplies, medicines, prosthetic devices, transportation  
14 charges to the nearest point where adequate medical facilities  
15 are available, burial expenses, compensation or death benefits  
16 and the liability of the insurer to pay the same are and  
17 shall be a part of this policy contract as fully and complet-  
18 ly as if written herein.

19 (c) NOTICE TO EMPLOYER. That, as between the in-  
20 surer and the employee or his or her beneficiaries, notice  
21 to or knowledge of the occurrence of the injury on the part  
22 of the insured employer shall be notice or knowledge thereof,  
23 as the case may be, on the part of the insurer; that the jur-  
24 isdiction of the insured employer for the purpose of this Act  
25 shall be the jurisdiction of the insurer, and the insurer  
26 shall, in all things, be bound by and shall be subject to the  
27 orders, awards, judgments and decrees rendered against the  
28 insured employer under said Act.

29 (d) CONDITIONS OF PAYMENT. That the insurer will

1 promptly pay to the person or persons entitled to the same,  
2 all benefits conferred by this Act, including physician's  
3 fees, nurse's charges, hospital services, hospital supplies,  
4 medicines, prosthetic devices, transportation charges to the  
5 nearest point where adequate medical facilities are available,  
6 burial expenses, and all installments of compensation or death  
7 benefits that may be awarded or agreed upon under said Act;  
8 that the obligation of the insurer shall not be affected by  
9 any default of the insured employer after the injury, or by  
10 any default in giving of any notice required by this policy;  
11 that the policy is and shall be construed to be a direct pro-  
12 mise by the insurer to the person entitled by the insurer to  
13 the person entitled to physician's fees, nurse's charges,  
14 fees for hospital services, charges for medicines, prosthet-  
15 ic devices, transportation charges to the nearest point  
16 where adequate medical facilities are available and hospital  
17 supplies, charges for burial, compensation or death benefits,  
18 and shall be enforceable in the name of such person or  
19 persons.

20 (e) NOTICE OF TERMINATION. That any termination  
21 of the policy by cancellation shall not be effective as to  
22 the employees of the insured employer covered thereby until  
23 ten days after written notice of such termination has been  
24 received by the Board. Provided, however, that if the em-  
25 ployer has secured insurance with another insurance carrier,  
26 cancellation shall be effective as of the date of such other  
27 coverage.

28 (f) JOINT LIABILITY. That all claims for compen-  
29 sation, death benefits, physician's fees, nurse's charges,

1 hospital services, hospital supplies, medicines, prosthetic  
2 devices, transportation charges to the nearest point where  
3 adequate medical facilities are available, burial expenses,  
4 may be made directly against either the employer or the in-  
5 surer, or both, and the order or award of the Board may be  
6 made against either the employer or the insurer or both.

7 (g) REVOCATION BY COMMISSIONER. That if any in-  
8 surer shall fail or refuse to pay any final award or judg-  
9 ment (except during the pendency of an appeal) rendered  
10 against it, or its insured, or if it shall fail or refuse to  
11 comply with any provisions of this Act, the Insurance Commis-  
12 sioner shall revoke the approval of the policy form, and shall  
13 not accept any further proofs of insurance from it until it  
14 shall have paid said award or judgment or complied with the  
15 violated provision of this Act, and shall have resubmitted  
16 its policy form and received the approval thereof by the  
17 Insurance Commissioner.

18 Sec. 40. INSURANCE RATES. If the provisions of this Act  
19 require any insurance rates adjustments, said adjustments must be  
20 conditioned upon strict compliance with the rate regulation provi-  
21 sions of State law.

22 Sec. 41. REPEALER. Sections 43-3-1 through 43-3-39 ACLA,  
23 as amended by Chapter 104 SLA 1949, Chapter 133 SLA 1951, Chapter  
24 24 SLA 1953, Chapter 60 SLA 1953 and Chapter 141 SLA 1955 are  
25 hereby repealed.

26 Sec. 42. EFFECTIVE DATE. This Act shall take effect July 1,  
27 1959.