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IN THE HOUSE BY MR. BOARDMAN BY REQUEST
HOUSE BILL NO. 128
IN THE LEGISLATURE OF THE STATE OF ALASKA
SECOND LEGISLATURE - FIRST SESSION
A BILL

For an Act entitled: "An Act relating to the Alaska Workmen's Compensation Act; amending Secs. 4, 6, 7, 12, 13 and 30, Ch. 193, SLA 1959; repealing and re-enacting Secs. 6(2) and 7(8), Ch. 193, SLA 1959."

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

Section 1. Sec. 4, Ch. 193, SLA 1959 is amended to read:

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 and any fellow employee 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.

1 Sec. 2. Subsec. (1), Sec. 6, Ch. 193, SLA 1959 is amended
2 to read:

3 (1) The employer shall furnish such medical, surgical,
4 and other attendance or treatment, nurse and hospital
5 service, medicine, crutches, and apparatus, for such period
6 as the nature of the injury or the process of recovery may
7 require, not exceeding four years from and after the
8 date of injury to any such employee; provided, however,
9 that if the condition requiring such treatment, apparatus
10 or medicine is a latent one, the four year period shall
11 run from the time the employee has knowledge of the nature
12 of his disability and its relationship to his employment
13 and after-disablement. Whenever medical care is required,
14 the injured employee may designate any licensed physician
15 within the state to render such care except in cases where,
16 in the judgment of the Board, care and/or treatment can best
17 be administered by the selection of another physician. Upon
18 procuring the services of such physician, the injured employee
19 shall give proper notification of his selection to the
20 employer within a reasonable time after first being treated.
21 If for any reason during the period when medical care is re-
22 quired, the employee wishes to change to another physician,
23 he may do so in accordance with rules prescribed by the Board.
24 If the employee is unable to designate a physician and the
25 emergency nature of the injury requires immediate medical
26 care, or if he does not desire to designate a physician and
27 so advises the employer, the employer shall designate the
28 physician. The foregoing provision shall not, however,
29 deprive the employee from subsequently designating a physician

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

20 Sec. 3. Subsec. (2), Sec. 6, Ch. 193, SLA 1959 is repealed
21 and re-enacted to read:

22 (2) The employee shall after an injury at reasonable
23 times during the continuance of his or her disability, if
24 so requested by his or her employer, or when ordered by
25 the Board, submit himself or herself to an examination by
26 a physician or surgeon authorized to practice medicine
27 under the laws of the state in which such employee may be
28 found, furnished and paid for by the employer, or by the
29 Board. The employee shall have the right to have a

1 physician, provided and paid for by himself or herself,
2 present at such examination or examinations. No fact
3 communicated to, or otherwise learned by any physician or
4 surgeon who may have attended or examined the employee, or
5 who may have been present at any examination, shall be
6 privileged, either in the hearings provided for in this
7 Act, or any action to recover damages against any employer
8 who is subject to the compensation provisions of this Act.
9 If any employee refuses to submit himself or herself to any
10 such examination or examinations provided for herein, his
11 or her rights to compensation shall be suspended until such
12 obstruction or refusal ceases, and his or her compensation,
13 during such period of suspension, may, in the discretion of
14 the Board, or the court determining an action brought for
15 the recovery of damages hereunder, be forfeited. The
16 employer, or the Board, shall have the right in any case of
17 death to require an autopsy at the expense of the party
18 requesting same. No autopsy shall be held in any case
19 without notice first being given to the widow or next of
20 kin, if they reside in the state, or their whereabouts can
21 be reasonably ascertained, of the time and place thereof
22 and reasonable time and opportunity given such widow or
23 next of kin to have a representative present to witness the
24 autopsy. If no adequate notice is given, the findings
25 from the autopsy may be suppressed on motion duly made to
26 the Board, or to the superior court, as the case may be.

27 Sec. 4. Sec. 6, Ch. 193, SLA 1959 is amended by adding a
28 new Subsec. (6) to read:

29 (6) Upon the filing with the Board by any party in

1 interest of an application or other pleading, all parties to
2 the proceeding must immediately, or in any event within five
3 days after service of such pleading, send to the Board the
4 original signed reports of all physicians relating to the
5 proceedings which they may have in their possession or under
6 their control and copies of such reports shall be served by
7 the party forthwith on the adverse party. There shall be a
8 continuing duty on the parties so to file and serve all such
9 reports during the pendency of the proceeding.

10 Sec. 5. Subsec. (8), Sec. 7, Ch. 193, SLA 1959 is repealed
11 and re-enacted to read:

12 (8) At any time after death, or after seven days sub-
13 sequent to the date of the injury, the employer and the
14 employee or the beneficiary or beneficiaries, as the case may
15 be, shall have the right to reach an agreement in regard to
16 any claim for injury or death hereunder in accordance with
17 the applicable schedule hereof, but a memorandum of the
18 agreement in a form prescribed by the Board shall be filed
19 with the Board, otherwise the same shall be void for any pur-
20 pose. If approved by the Board, such agreement shall be en-
21 forceable the same as any order or award of the Board and
22 shall discharge the liability of the employer for such com-
23 pensation, notwithstanding the provisions of Secs. 14(2), 15,
24 and 21 of this Act. Such agreement shall be approved by the
25 Board only when the terms conform to the provisions of this
26 Act, and if it involves or is likely to involve permanent
27 disability, the Board may require an impartial medical
28 examination and a hearing in order to determine whether to
29 approve the agreement. The Board may approve lump sum

1 settlements when it appears to be to the best interest of the
2 employee or beneficiary or beneficiaries; provided, however,
3 in death cases such lump sum settlements shall be approved
4 only in cases where the deceased leaves a surviving widow or
5 dependent husband and more than five years has elapsed since
6 the date of the employee's death.

7 Sec. 6. Sec. 7, Ch. 193, SLA 1959 is amended by adding a
8 new Subsec. (9) to read:

9 (9) In cases involving a person who on the date of his
10 injuries does not qualify as an Alaskan resident under the
11 residence requirements for voting in general elections of the
12 State of Alaska, compensation shall be paid in amounts and at
13 the times and for the periods of disability specified under
14 the laws of the state or country where he physically resides
15 during such periods of disability as he shall physically
16 reside outside the boundaries of the State of Alaska but in
17 no event shall the compensation so payable exceed the amount
18 specified under this Act. This subsection shall not apply
19 during periods that such nonresident physically resides with-
20 in the State of Alaska.

21 Sec. 7. Subsec. (1), Sec. 12, Ch. 193, SLA 1959 is amended
22 to read:

23 (1) The right to compensation for disability under this
24 Act shall be barred unless a claim therefor is filed within
25 two years after the employee has knowledge of the nature of
26 his disability and its relation to his employment and after
27 disablement, provided, however, that the maximum time for
28 filing such claim in any event other than arising out of an
29 occupational disease shall be four years from the date of

1 injury, and the right to compensation for death shall be
2 barred unless a claim therefor is filed within one year after
3 the death, except that if payment of compensation has been
4 made without an award on account of such injury or death a
5 claim may be filed within two years after the date of the
6 last payment.

7 Sec. 8. Subsec. (12), Sec.13, Ch. 193, SLA 1959 is amended
8 to read:

9 (12) The total compensation payable under this Act for
10 injuries shall in no event exceed the sum of \$20,000.00;
11 [PROVIDED, THAT THIS SUBDIVISION SHALL NOT APPLY TO CASES OF
12 PERMANENT TOTAL DISABILITY OR DEATH; AND] Provided [FURTHER],
13 that in cases of disability compensable under paragraph (t)
14 of subdivision (3) of Section 7 the total compensation for
15 such disability, and for any temporary total disability or
16 temporary partial disability sustained in addition thereto,
17 shall not exceed in the aggregate the sum of \$17,000.00 [.]
18 ; and provided further that in the event of the death of any
19 employee compensable under this Act, the total compensation
20 payable under this Act shall be as follows:

21 (a) If such employee at the time of his death
22 leaves only a surviving widow or dependent husband,
23 \$18,500.00.

24 (b) If such employee at the time of his death
25 leaves a widow or dependent husband and one child,
26 \$21,500.00.

27 (c) If such employee at the time of his death
28 leaves a widow or dependent husband and more than one child,
29 \$25,500.00.

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(d) If such employee at the time of his death leaves one surviving child but no widow or dependent husband, \$18,500.00.

(e) If such employee at the time of his death leaves more than one surviving child but no widow or dependent husband, the maximum payable under item (d) of this subsection shall be increased by \$2,000.00 for each additional surviving child, the total in no event, however, to exceed \$25,500.00.

Sec. 9. Subsec. (1), Sec. 30, Ch. 193, SLA 1959 is amended to read:

(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 or a fellow employee 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 believed to be liable.

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