

Introduced: 2/25/65  
Referred: Labor and  
Management and Judiciary

1 IN THE HOUSE

RULES COMMITTEE  
BY REQUEST OF THE GOVERNOR

2 HOUSE BILL NO. 176

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the means of recovering  
7 damages in workmen's compensation cases where  
8 third parties may be liable; and providing  
9 for an effective date."

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

11 \* Section 1. AS 23.30.015 is repealed and re-enacted to read:

12 Sec. 23.30.015. COMPENSATION WHERE THIRD PERSONS ARE  
13 LIABLE. (a) If on account of disability or death for which  
14 compensation is payable under this chapter the person entitled  
15 to such compensation believes that a person other than the  
16 employer or a fellow employee is liable for damages, he need  
17 not elect whether to receive compensation or to recover  
18 damages against a third person.

19 (b) Acceptance of compensation under an award in a com-  
20 pensation order filed by the board operates as an assignment  
21 to the employer of all rights of the person entitled to com-  
22 pensation to recover damages, unless the person commences an  
23 action against the third person within one year after an  
24 award.

25 (c) Payment of compensation into the second-injury fund  
26 operates as an assignment to the employer of all rights of  
27 the legal representative of the deceased to recover damages  
28 against a third person.

29 (d) An employer under an assignment may either institute

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1 proceedings for the recovery of damages or may compromise  
2 with a third person, either without or after instituting an  
3 action.

4 (e) An amount recovered by the employer under an assign-  
5 ment, whether by action or compromise, shall be distributed  
6 as follows:

7 (1) The employer shall retain an amount equal to--

8 (A) the expenses incurred by him in respect  
9 to the action or compromise, including a reasonable  
10 attorney fee determined by the board;

11 (B) the cost of all benefits actually fur-  
12 nished by him to the employer under sec. 95;

13 (C) all amounts paid as compensation;

14 (D) the present value of all amounts payable  
15 later as compensation (present value to be computed from  
16 a schedule prepared by the board), and the present value  
17 of the cost of all benefits to be furnished later under  
18 sec. 95 (as estimated by the board), the amounts so com-  
19 puted and estimated to be retained by the employer as a  
20 trust fund to pay compensation and the cost of benefits  
21 as they become due and to pay any finally remaining  
22 excess sum to the person entitled to compensation or to  
23 the representative; and

24 (2) The employer shall pay any excess to the per-  
25 son entitled to compensation or to his representative, less  
26 one-fourth of the excess to be retained by the employer.

27 (f) If the person entitled to compensation institutes  
28 proceedings within one year, the employer shall be required  
29 to pay as compensation a sum equal to the excess of the

1 amount which the board determines is payable on account of  
2 such injury or death over the amount recovered against a  
3 third person.

4 (g) If compromise with a third person is made by the  
5 person entitled to compensation or his representative of an  
6 amount less than the compensation to which the person or  
7 representative would be entitled to, the employer is liable  
8 for compensation as determined in (f) only if the compromise  
9 is made with his written approval.

10 (h) Where the employer is insured and the insurance  
11 carrier has assumed the payment of the compensation, the  
12 insurance carrier shall be subrogated to all the rights of  
13 the employer.

14 (i) The right to compensation or to benefits under this  
15 chapter shall be the exclusive remedy to an employee when he  
16 is injured, or to his eligible survivors or representatives  
17 if he is killed, by the negligence or wrong of any other  
18 person in the same employ; but this provision shall not  
19 affect the liability of a person other than an officer or  
20 employee of the employer.

21 \* Sec. 2. This Act takes effect July 1, 1965.  
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