

Original Sponsor:
Rules Committee
By Request of the Governor

Offered: 3/17/65
Referred: Rules

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR 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 recover-
7 ing damages in workmen's compensation cases
8 where third parties may be liable; and
9 providing 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 AS 23.30.015 ~~is~~ repealed and re-enacted to read: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 en-
15 titled to such compensation believes that a third person
16 other than the employer or a fellow employee is liable for
17 damages, he need not elect whether to receive compensation
18 or to recover damages from the 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 and the personal representative of a deceased
23 employee to recover damages from the third person unless the
24 person or representative entitled to compensation commences
25 an action against the third person within one year after
26 an award.

27 (c) Payment of compensation into the second-injury
28 fund as a result of death operates as an assignment to the
29 employer of all rights of the representative of the deceased

1 to recover damages from the third person.

2 (d) An employer under an assignment may either insti-
3 tute proceedings for the recovery of damages or may compro-
4 mise with a third person, either without or after instituting
5 an action.

6 (e) An amount recovered by the employer under an
7 assignment, whether by action or compromise, shall be
8 distributed as follows:

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

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

13 (B) the cost of all benefits actually fur-
14 nished by him under this chapter;

15 (C) all amounts paid as compensation and
16 second-injury fund payments;

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

27 (2) the employer shall pay any excess to the per-
28 son entitled to compensation or to his representative, less
29 one-fourth of the excess, not to exceed \$10,000, to be

1 retained by the employer.

2 (f) Even if an employee, his representative, or his
3 employer brings an action or settles a claim against the
4 third person, the employer shall pay the benefits and com-
5 pensation required by this chapter.

6 (g) If the employee or his representative recovers
7 damages from the third person, the employee or representative
8 shall promptly pay to the employer the total amounts paid by
9 the employer under (e)(1)(A), (B), and (C), insofar as the
10 recovery is sufficient after deducting all litigation costs
11 and expenses. Any excess recovery by the employee or repre-
12 sentative shall be credited against any amount payable by
13 the employer thereafter.

14 (h) If compromise with a third person is made by the
15 person entitled to compensation or his representative of an
16 amount less than the compensation to which the person or
17 representative would be entitled, the employer is liable for
18 compensation stated in (f) only if the compromise is made
19 with his written approval.

20 (i) If the employer is insured and the carrier has
21 assumed the payment of compensation, the carrier shall be
22 subrogated to all the rights of the employer.

23 (j) Notice of the commencement of an action against
24 a third party shall be given to the board and to all in-
25 terested parties within 30 days.

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

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