

Original sponsor: Labor and Management Committee

Offered: 3/14/68
Referred: Finance

1 IN THE HOUSE

BY THE LABOR AND MANAGEMENT COMMITTEE

2 CS FOR HOUSE BILL NO. 651

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the payment of workmen's compen-
7 sation in cases of injury when combined with a pre-
8 existing condition; and providing for an effective
9 date."

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

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 AS 23.30.205 is repealed and re-enacted to read:

12 Sec. 23.30.205. INJURY COMBINED WITH PRE-EXISTING IMPAIRMENT.

13 (a) If an employee who has a permanent physical impairment from any
14 cause or origin incurs a subsequent disability by injury arising out
15 of and in the course of his employment resulting in compensation
16 liability for disability that is substantially greater by reason of the
17 combined effects of the pre-existing impairment and subsequent injury
18 or by reason of the aggravation of the pre-existing impairment than
19 that which would have resulted from the subsequent injury alone, the
20 employer or his insurance carrier shall in the first instance pay all
21 awards of compensation provided by this chapter, but the employer or
22 his insurance carrier shall be reimbursed from the second injury fund
23 for all compensation payments subsequent to those payable for the
24 first 104 weeks of disability.

25 (b) If the subsequent injury of the employee results in the death
26 of the employee and it is determined that the death would not have
27 occurred except for the pre-existing permanent physical impairment, the
28 employer or his insurance carrier shall in the first instance pay the
29 compensation prescribed by this chapter, but he or his insurance

1 carrier shall be reimbursed from the second injury fund for all
2 compensation payable in excess of 104 weeks.

3 (c) In order to qualify under this section for reimbursement
4 from the second injury fund, the employer must establish by written
5 records that the employer had knowledge of the permanent physical
6 impairment before the subsequent injury and that the employee was
7 hired or retained in employment after the employer acquired that
8 knowledge.

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

15 (1) it is one of the following conditions:

- 16 (A) epilepsy,
17 (B) diabetes,
18 (C) cardiac disease,
19 (D) arthritis,
20 (E) amputated foot, leg, arm or hand,
21 (F) loss of sight of one or both eyes or a partial
22 loss of uncorrected vision of more than 75 per cent bilaterally,
23 (G) residual disability from poliomyelitis,
24 (H) cerebral palsy,
25 (I) multiple sclerosis,
26 (J) Parkinson's disease,
27 (K) cerebral vascular accident,
28 (L) tuberculosis,
29 (M) silicosis,

- 1 (N) haemophilia,
2 (O) chronic osteomyelitis,
3 (P) osteoporosis,
4 (Q) ankylosis of joints,
5 (R) hyperinsulism,
6 (S) muscular dystrophies,
7 (T) arteriosclerosis,
8 (U) thrombophlebitis,
9 (V) varicose veins,
10 (W) heavy metal poisoning,
11 (X) ionizing radiation injury,
12 (Y) compressed air sequelae,
13 (Z) ruptured intervertebral disk,
14 (AA) spondylolisthesis, or

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

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

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

27 * Sec. 3. This Act takes effect on the day after its passage and
28 approval or on the day it becomes law without approval.
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