

Introduced: 2/26/73  
Referred: Labor and  
Management

1 IN THE SENATE

BY CROFT

2 SENATE BILL NO. 172

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 EIGHTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workmen's compensation; and pro-  
7 viding for an effective date."

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

9 \* Section 1. AS 23.30.040(e) is amended to read:

10 (e) If the board determines that a person could benefit from  
11 vocational rehabilitation it shall [THE BOARD MAY] direct and provide  
12 the vocational retraining and rehabilitation of a [PERMANENTLY DISABLED]  
13 person whose condition is a result of an injury compensable under this  
14 chapter by making cooperative arrangements with insurance carriers,  
15 private organizations and institutions or state or federal agencies.  
16 The expense of the retraining or rehabilitation shall be paid out of that  
17 portion of the second injury fund that exceeds \$10,000. The person being  
18 retrained or rehabilitated shall receive compensation from the second  
19 injury fund for maintenance, in the sum which the board considers neces-  
20 sary, during the period of retraining and rehabilitation [, NOT EXCEEDING  
21 \$100 A MONTH]. The total expenditures for maintenance, training, re-  
22 habilitation and necessary transportation shall be determined by the  
23 board. The board shall take appropriate action to modify or suspend  
24 benefits provided for under this chapter if a qualified candidate for  
25 rehabilitation refuses, without good cause, to participate in his re-  
26 habilitation process [MAY NOT EXCEED \$5,000 FOR ONE PERSON].

27 \* Sec. 2. AS 23.30.095(a) is amended to read:

28 (a) The employer shall furnish medical, surgical, and other  
29 attendance or treatment, nurse and hospital service, medicine, crutches,

1 and apparatus for the period which the nature of the injury or the  
2 process of recovery requires [, NOT EXCEEDING TWO YEARS FROM AND AFTER  
3 THE DATE OF INJURY TO THE EMPLOYEE. HOWEVER, IF THE CONDITION REQUIRING  
4 THE TREATMENT, APPARATUS, OR MEDICINE IS A LATENT ONE, THE TWO-YEAR  
5 PERIOD RUNS FROM THE TIME THE EMPLOYEE HAS KNOWLEDGE OF THE NATURE OF  
6 HIS DISABILITY AND ITS RELATIONSHIP TO HIS EMPLOYMENT AND AFTER-DISABLE-  
7 MENT. IT SHALL BE ADDITIONALLY PROVIDED THAT, IF CONTINUED TREATMENT  
8 OR CARE OR BOTH BEYOND THE TWO-YEAR PERIOD IS INDICATED, THE INJURED  
9 EMPLOYEE HAS THE RIGHT OF REVIEW BY THE BOARD]. The board may authorize  
10 additional [CONTINUED] treatment or care or both as the process of re-  
11 covery may require. When medical care is required, the injured employee  
12 may designate a licensed physician inside the state to render the care  
13 except in cases where, in the judgment of the board, care or treatment  
14 or both can best be administered by the selection of another physician.  
15 Upon procuring the services of a physician, the injured employee shall  
16 give proper notification of his selection to the employer within a  
17 reasonable time after first being treated. If for any reason during the  
18 period when medical care is required the employee wishes to change to  
19 another physician, he may do so in accordance with rules prescribed by  
20 the board.

21 \* Sec. 3. AS 23.30.105(a) is amended to read:

22 (a) The right to compensation for disability under this chapter  
23 is barred unless a claim for it is filed within three [TWO] years after  
24 the employee has knowledge of the nature of his disability and its re-  
25 lation to his employment and after disablement. However, the maximum  
26 time for filing the claim in any event other than arising out of an  
27 occupational disease shall be four years from the date of injury, and  
28 the right to compensation for death is barred unless a claim therefor is  
29 filed within one year after the death, except that if payment of

1 compensation has been made without an award on account of the injury or  
2 death, a claim may be filed within three [TWO] years after the date of  
3 the last payment. It is additionally provided that, in the case of  
4 latent defects pertinent to and causing compensable disability, the  
5 injured employee has full right to claim as shall be determined by the  
6 board, time limitations notwithstanding.

7 \* Sec. 4. AS 23.30.155(1) is repealed.

8 \* Sec. 5. AS 23.30.150 is amended to read:

9 Sec. 23.30.150. COMMENCEMENT OF COMPENSATION. No compensation may  
10 be allowed for the first three days of the disability, except the bene-  
11 fits provided for in sec. 95 of this chapter; if, however, the injury  
12 results in disability of more than 14 [28] days, compensation shall be  
13 allowed from the date of the disability.

14 \* Sec. 6. AS 23.30.175 is repealed and re-enacted to read:

15 Sec. 23.30.175. RATES OF COMPENSATION. Compensation for temporary  
16 disability or permanent disability may not exceed 66 2/3 per cent of the  
17 state's average weekly wage until June 30, 1973; 100 per cent of the  
18 state's average weekly wage between July 1, 1973 and June 30, 1975;  
19 133 1/3 per cent of the state's average weekly wage between July 1, 1975  
20 and June 30, 1977; 166 2/3 per cent of the state's average weekly wage  
21 between July 1, 1977 and June 30, 1981; and 200 per cent of the state's  
22 average weekly wage on or after July 1, 1981. Compensation under this  
23 section may not be less than \$65 a week. If the employee's average  
24 weekly wages, as computed under sec. 220 of this chapter, are less than  
25 \$65 a week, he shall receive as compensation for temporary disability  
26 his average weekly wages.

27 \* Sec. 7. AS 23.30.180 is amended to read:

28 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. (a) In case of total  
29 disability adjudged to be permanent 80 [65] per cent of the average

1 weekly wages shall be paid to the employee during the continuance of the  
2 total disability. Loss of both hands, or both arms, or both feet, or  
3 both legs, or both eyes, or of any two of them, in the absence of con-  
4 clusive proof to the contrary, constitutes permanent total disability.  
5 In all other cases permanent total disability is determined in accordance  
6 with the facts.

7 (b) Benefits for permanent total disability shall be incremented  
8 from year to year in the same proportion as the rise in the state's  
9 average weekly wage. Increments are payable in the year following a  
10 computation of the state's average weekly wage which shows an increase.

11 \* Sec. 8. AS 23.30.185 is amended to read:

12 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In  
13 case of disability total in character but temporary in quality, 80 [65]  
14 per cent of the average weekly wages shall be paid to the employee during  
15 the continuance of the disability.

16 \* Sec. 9. AS 23.30.190 is amended to read:

17 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.  
18 In case of disability partial in character but permanent in quality the  
19 compensation is 80 [65] per cent of the average weekly wages in addition  
20 to compensation for temporary total disability or temporary partial dis-  
21 ability paid in accordance with secs. 185 or 200 of this chapter, respec-  
22 tively, and shall be paid to the employee as follows:

- 23 (1) arm lost, 312 [280] weeks compensation [, NOT TO EXCEED  
24 \$21,840];
- 25 (2) leg lost, 288 [248] weeks compensation [, NOT TO EXCEED  
26 \$20,160];
- 27 (3) hand lost, 244 [212] weeks compensation [, NOT TO EXCEED  
28 \$16,800];
- 29 (4) foot lost, 205 [173] weeks compensation [, NOT TO EXCEED

1 \$14,350];

2 (5) eye lost, 160 [140] weeks compensation [, NOT TO EXCEED  
3 \$11,200];

4 (6) thumb lost, 75 [51] weeks compensation [, NOT TO EXCEED  
5 \$5,200];

6 (7) first finger lost, 46 [28] weeks compensation [, NOT TO  
7 EXCEED \$3,220];

8 (8) great toe lost, 38 [26] weeks compensation [, NOT TO  
9 EXCEED \$2,660];

10 (9) second finger lost, 30 [18] weeks compensation [: \$2,100];  
11 third finger lost, 25 [18] weeks compensation [: \$1,750];

12 (10) toe other than great toe lost, 16 [8] weeks compensation  
13 [, NOT TO EXCEED \$1,120];

14 (11) fourth finger lost, 15 [7] weeks compensation [, NOT TO  
15 EXCEED \$1,050];

16 (12) loss of hearing of one ear, 52 weeks compensation [, NOT  
17 EXCEEDING \$3,640]; loss of hearing of both ears, 200 weeks compensation  
18 [, NOT TO EXCEED \$14,000];

19 (13) compensation for loss of more than one phalange of a  
20 digit shall be the same as for loss of the entire digit; compensation  
21 for loss of the first phalange is one-half of the compensation for loss  
22 of the entire digit;

23 (14) amputation between the elbow and the wrist is considered  
24 equivalent to the loss of an arm, and amputation between the knee and  
25 ankle is considered equivalent to the loss of a leg;

26 (15) compensation for loss of binocular vision or for 80 per  
27 cent or more of the vision of an eye is the same as for loss of the eye;

28 (16) compensation for loss of two or more digits, or one or  
29 more phalanges of two or more digits of a hand or foot may be

1 proportioned to the resulting loss of use of the injured hand or foot,  
2 but may not exceed the compensation for loss of a hand or foot;

3 (17) compensation for permanent total loss of use of a member  
4 is the same as for loss of the member;

5 (18) compensation for permanent partial loss or loss of use  
6 of a member may be for proportionate loss or loss of use of the member;

7 (19) in addition to other allowable compensation, the board  
8 shall award proper and equitable compensation up to \$10,000 for serious  
9 disfigurement of face, head and, when such disfigurement is likely to  
10 handicap the employee in securing or holding employment, for serious  
11 disfigurement of neck or limbs normally exposed;

12 (20) in all other cases in this class of disability the com-  
13 pensation is 80 [65] per cent of the difference between his average  
14 weekly wages and his wage-earning capacity after the injury in the same  
15 employment or otherwise, payable during the continuance of the partial  
16 disability, but subject to reconsideration of the degree of the impair-  
17 ment by the board on its own motion or upon application of a party in  
18 interest; whenever the board determines that it is in the interest of  
19 justice, the liability of the employer for compensation, or any part of  
20 it as determined by the board, may be discharged by the payment of a  
21 lump sum;

22 (21) in a case in which there is a loss of, or loss of use of  
23 more than one member or parts of more than one member set out in (1) -  
24 (18) of this section, not amounting to permanent total disability, the  
25 award of compensation is for the loss of, or loss of use of, each member  
26 or part of the member, which awards shall run consecutively, except that  
27 where the injury affects only two or more digits of the same hand or  
28 foot, (16) of this section applies.

29 \* Sec. 10. AS 23.30.195(a) is amended to read:

1 (a) Compensation to which any claimant would be entitled under  
2 sec. 190 of this chapter excepting (20) of that section shall, notwith-  
3 standing death arising from causes other than the injury, be payable to  
4 and for the benefit of the persons following:

5 (1) if there be a surviving widow or widower [WIFE OR DEPEN-  
6 DENT HUSBAND] and no child of the deceased, to the surviving widow or  
7 widower [WIFE OR DEPENDENT HUSBAND];

8 (2) if there be a surviving widow or widower [WIFE OR DEPEN-  
9 DENT HUSBAND] and a surviving child or children of the deceased, one-half  
10 to the surviving widow or widower [WIFE OR DEPENDENT HUSBAND], the other  
11 half, share and share alike, to the surviving child or children;

12 (3) if there be a surviving child or children of the deceased,  
13 but no surviving widow or widower [WIFE OR DEPENDENT HUSBAND], then to  
14 the child or children share and share alike.

15 \* Sec. 11. AS 23.30.200 is amended to read:

16 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of temporary  
17 partial disability resulting in decrease of earning capacity the compen-  
18 sation shall be 80 [65] per cent of the difference between the injured  
19 employee's average weekly wages before the injury and his wage earning  
20 capacity after the injury in the same or another employment, to be paid  
21 during the continuance of the disability and rehabilitation [, BUT NOT  
22 TO BE PAID FOR MORE THAN FIVE YEARS].

23 \* Sec. 12. AS 23.30.215(a)(2) is repealed and re-enacted to read:

24 (2) if there is a surviving widow or widower 80 per cent of  
25 the average weekly wages of the deceased with two years of benefits in  
26 a lump sum upon remarriage; if there is a surviving child or children  
27 of the deceased then 80 per cent of the average weekly wages of the  
28 deceased share and share alike upon the remarriage or death of the  
29 surviving widow or widower; if there is a surviving child or children of

1 the deceased not living with or dependent upon the surviving widow or  
2 widower then the benefit to the surviving widow or widower shall be  
3 reduced by 10 per cent for each child not to exceed 20 per cent of the  
4 surviving widow or widower's benefits to be distributed share and share  
5 alike for the surviving children.

6 \* Sec. 13. AS 23.30.215(a)(3) is repealed and re-enacted to read:

7 (3) if there is no surviving widow or widower but surviving  
8 child or children then 80 per cent of the deceased's average weekly wages  
9 share and share alike for the surviving children;

10 \* Sec. 14. AS 23.30.215(a)(4) is amended to read:

11 (4) if there is no surviving widow or widower [WIFE OR DEPEN-  
12 DENT HUSBAND] or child or children, then for the support of father,  
13 mother, grandchildren, brothers and sisters, if dependent upon the  
14 deceased at the time of injury, 80 [35] per cent of the average weekly  
15 wage of the deceased to such beneficiaries, share and share alike  
16 [, NOT TO EXCEED \$20,000 IN THE AGGREGATE].

17 \* Sec. 15. AS 23.30.215(b) is amended to read:

18 (b) In computing death benefits the average weekly wage of the  
19 deceased shall be computed under sec. 220 of this chapter and shall be  
20 paid in the same manner and subject to the same weekly maximum limita-  
21 tion in the aggregate as temporary total disability compensation under  
22 sec. 175(a) of this chapter, but the total weekly compensation may not  
23 be less than 50 per cent of the state's average weekly wage. Death  
24 benefits shall be incremented from year to year in the same proportion  
25 as the rise in the state's average weekly wage. Increments are payable  
26 in the year following a computation of the state's average weekly wage  
27 which shows an increase [\$45 FOR A WIDOW OR WIDOWER NOR LESS THAN \$15  
28 WEEKLY TO A CHILD OR \$30 FOR CHILDREN].

29 \*Sec. 16. AS 23.30.215(d) is amended to read:

1 (d) Compensation under this chapter to aliens not residents [OR  
2 ABOUT TO BECOME NONRESIDENTS] of the United States or Canada is the  
3 same in amount as provided for residents, except that dependents in a  
4 foreign country are limited to surviving widow or widower [WIFE] and  
5 child or children, or if there is no surviving widow or widower [WIFE]  
6 and child or children, to surviving father or mother whom the employee  
7 has supported, either wholly or in part, for a period of one year before  
8 the date of injury. The board, at its option, or upon the application  
9 of the insurance carrier, may commute all future installments of  
10 compensation to be paid to an alien dependent who is not a resident of  
11 the United States or Canada by paying or causing to be paid to him one-  
12 half of the commuted amount of the future installments of compensation  
13 as determined by the board.

14 \* Sec. 17. AS 23.30.215(e) is repealed.

15 \* Sec. 18. AS 23.30.215 is amended by adding a new subsection to read:

16 (f) Death benefits received under this section shall be reduced by  
17 the amount of any benefits received from social security which benefits  
18 are received as a direct result of the death of the deceased person  
19 giving rise to death benefits under this section.

20 \* Sec. 19. AS 23.30.230 is repealed and re-enacted to read:

21 Sec. 23.30.230. AGRICULTURAL, DOMESTIC AND OTHER CASUAL EMPLOYEES.

22 (a) Agricultural employers having an aggregate agricultural employee  
23 payroll of \$1,000 or more are subject to the provisions of this chapter.

24 (b) All agricultural employers become subject to the provisions of  
25 this chapter beginning July 1, 1975.

26 (c) Employers of domestic and other casual employees become subject  
27 to the provisions of this chapter beginning July 1, 1975 to the extent  
28 that each employee earns enough income to require the employer to make  
29 social security contributions under the federal Social Security Act,

1 with amendments.

2 \* Sec. 20. AS 23.30 is amended by adding a new section to read:

3 Sec. 23.30.235. SAFETY PROGRAMS. (a) All persons doing business  
4 in the state and private insurers under this chapter shall provide an  
5 effective loss prevention service.

6 (b) The board shall set reasonable standards for categories of  
7 insured risks and for individual employers if necessary and shall  
8 periodically inspect the premises of the insured to assure compliance  
9 with these safety standards.

10 (c) Violators of the board's standards may be subject to a penalty  
11 not exceeding \$5,000 to be determined by the board.

12 \* Sec. 21. AS 23.30.240 is repealed.

13 \* Sec. 22. AS 23.30.265(20) is amended to read:

14 (20) "wages" means the net money rate at which the service  
15 rendered is recompensed under the contract of hiring in force at the  
16 time of the injury, and includes the reasonable value of board, rent,  
17 housing, lodging, or similar advantage received from the employer, and  
18 gratuities received in the course of employment from others than the  
19 employer; and, "net money rate" as used in this paragraph means the  
20 value received after payment of federal and state income taxes and  
21 social security contributions;

22 \* Sec. 23. AS 23.30.265 is amended by adding a new paragraph to read:

23 (26) "state's average weekly wage" means the dollar figure  
24 arrived at each year by the Department of Labor in its computations under  
25 AS 23.20 and published as the state's average weekly wage.

26 \* Sec. 24. AS 23.30.265(22) is amended to read:

27 (22) "widower" includes only the decedent's husband living  
28 with or dependent for support upon her [WHO] at the time of her death,  
29 or living apart for justifiable cause or by reason of her desertion at

1        such a time [LIVED WITH HER AND WAS DEPENDENT FOR SUPPORT UPON HER];

2        \* Sec. 25. This Act takes effect on the day after its passage and approval  
3 or on the day it becomes law without approval.

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