

Original sponsor: Rules Committee by
request of the Legislative Council
Subcommittee on Workmen's Compensation

Offered: 4/30/76
For Today's Supplemental
Calendar

1 IN THE SENATE

BY THE RULES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 569 (Rules) am H.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workmen's compensation; and
7 occupational safety and health."

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

9 * Section 1. AS 21.39 is amended by adding a new section to read:

10 Sec. 21.39.155. ASSIGNED RISK POOL. (a) The director may require
11 carriers, as a condition of writing a line of insurance dealing with
12 workmen's compensation, to participate in an assigned risk pool if the
13 director finds that mandatory carrier participation is in the public
14 interest.

15 (b) The assigned risk pool and the procedures to be followed in
16 administering the pool shall be established by regulation.

17 * Sec. 2. AS 23.30.130(a) is amended to read:

18 (a) Upon its own initiative, or upon the application of any party
19 in interest on the ground of a change in conditions, including, for the
20 purposes of sec. 175 of this chapter, a change in residence, or because
21 of a mistake in its determination of a fact, the board may, before one
22 year after the date of the last payment of compensation, whether or not
23 a compensation order has been issued, or before one year after the
24 rejection of a claim, review a compensation case in accordance with
25 the procedure prescribed in respect of claims in sec. 110 of this
26 chapter. In accordance with sec. 110 of this chapter the board may
27 issue a new compensation order which terminates, continues, reinstates,
28 increases, or decreases the compensation, or award compensation.

29 * Sec. 3. AS 23.30.172 is amended to read:

1 [STATE] average weekly wage for the three consecutive calendar quarters
2 ending June 30. This determination is the applicable Alaska [STATE]
3 average weekly wage for the annual period beginning with January 1 of
4 the next year and ending December 31. The initial determination under
5 this subsection shall be made as soon as practicable after May 22, 1975.
6 The average weekly wage calculation for Alaska shall be based on the
7 wages of all employees in the state, both public and private, who are
8 covered by this chapter [THE EFFECTIVE DATE OF THIS SUBSECTION].

9 * Sec. 5. AS 23.30.175 is amended by adding new subsections to read:

10 (c) For the purposes of determining the average weekly wage of
11 a state other than Alaska, the commissioner shall adopt the average
12 weekly wage as computed and published by the state agency responsible
13 for administering the workmen's compensation laws of that state. For
14 those states in which no such figure is published, the commissioner
15 shall adopt the average weekly wage for that state as published by the
16 United States Secretary of Labor for the purposes of the Longshoremen's
17 and Harbor Workers' Compensation Act (P.L. 69-803; 44 Stat. 1424; 33
18 U.S.C. 901 et seq.). The average weekly wage as calculated for all
19 states shall be made available to the public.

20 (d) For a recipient who resides in a state other than Alaska, the
21 weekly rate of compensation shall be the weekly grant he would have
22 received if he resided in Alaska times the ratio of the average weekly
23 wage of the state in which he resides and the average weekly wage of
24 Alaska. For the purposes of this chapter, absence from Alaska for a
25 continuous period of more than 90 days creates a rebuttable presumption
26 of nonresidential status; however, this presumption does not arise if
27 the absence from Alaska is for medical or rehabilitation services.

28 (e) For a recipient who resides in a jurisdiction other than a
29 state as defined in (f) of this section, the weekly rate of compensation

1 shall be the weekly grant he would have received if he resided in Alaska
2 times the ratio of the average weekly wage of the jurisdiction in which
3 he resides, as determined by the commissioner, and the average weekly
4 wage of Alaska.

5 (f) In this section "state" means a state of the United States,
6 the District of Columbia, Puerto Rico, the Virgin Islands, American
7 Samoa, Guam, and the Trust Territory of the Pacific Islands.

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

9 (a) If the injury causes death, the compensation is known as a
10 death benefit and is payable as follows:

11 (1) reasonable and necessary funeral expenses not exceeding
12 \$1,000;

13 (2) if there is a widow or widower or a child or children of
14 the deceased, the following percentages of the average weekly wage of
15 the deceased shall be paid, but in no case may the compensation exceed
16 66 2/3 per cent of the average weekly wage, except as provided in (b) of
17 this section and (5) of this subsection:

18 (A) 66 2/3 per cent for the widow or widower with no
19 children;

20 (B) 33 1/3 per cent for the widow or widower with one
21 child and 33 1/3 per cent for the child;

22 (C) 20 per cent for the widow or widower with two or
23 more children and 46 2/3 per cent divided equally among the children;

24 (D) 33 1/3 per cent for an only child when there is no
25 widow or widower;

26 (E) 66 2/3 per cent divided equally among the children
27 when there are two or more children and there is no widow or
28 widower;

29 (3) if the widow or widower remarries, she or he is entitled

1 to a single payment equal to two years of the weekly compensation paid
2 on her or his account;

3 (4) if there is no widow or widower or child or children,
4 then for the support of the deceased's father, mother, grandchildren,
5 brothers and sisters, if actually dependent upon the deceased at the
6 time of injury for more than 50 per cent of their support, 33 1/3 per
7 cent of the average weekly wage of the deceased to those beneficiaries,
8 divided equally;

9 (5) if the deceased was providing support for children of
10 a previous marriage under a court-ordered decree, in addition to
11 benefits specified in (1) - (4) of this subsection, those children
12 shall receive the amount of support specified in the decree, subject
13 to any limitations of the decree, not to exceed 23 1/3 per cent of
14 the average weekly wage of the deceased.

15 * Sec. 7. AS 23.30.220 is repealed and re-enacted to read:

16 Sec. 23.30.220. DETERMINATION OF AVERAGE WEEKLY WAGE. Except as
17 otherwise provided in this chapter, the average weekly wage of the
18 injured employee at the time of the injury is the basis for computing
19 compensation, and is determined as follows:

20 (1) the average weekly wage of the injured employee is calcu-
21 lated by dividing 52 into the total wages earned, including self-
22 employment, in any one of the three calendar years that is most favorable
23 to the employee, immediately preceding the injury;

24 (2) if the board determines that the wage at the time of the
25 injury cannot be fairly calculated under (1) of this section, or cannot
26 otherwise be ascertained without undue hardship to the employee, the
27 wage for calculating compensation shall be the usual wage for similar
28 service rendered by paid employees under similar circumstances, as
29 determined by the board;

1 (3) if an employee is a minor or an apprentice, or a trainee,
2 as determined by the board, when injured and under normal conditions his
3 wages would increase during the period of disability, this fact shall be
4 considered in computing his average weekly wage;

5 (4) if the employee is injured while performing his duties as
6 a volunteer fireman, the wage for calculating compensation shall be the
7 minimum wage paid a full-time fireman in the political subdivision where
8 the injury occurred, or, if the subdivision has no full-time firemen
9 employed, at a reasonable wage figure previously set by the subdivision
10 for the purpose of making this determination and in no case may the wage
11 for calculating compensation be less than the minimum wage computed on
12 the basis of 40 hours work per week.

13 * Sec. 8. AS 23.30 is amended by adding a new section to read:

14 Sec. 23.30.225. OFFSET FOR OTHER BENEFITS. (a) The compensation
15 provided for in this chapter shall be reduced by an amount equal to one
16 half of the periodic disability, old age, or survivors benefits, as
17 appropriate, which are received under Title II of the Social Security
18 Act (P.L. 79-271; 49 Stat. 622; 42 U.S.C. 301 et seq.).

19 (b) When an employer provides to the employee, under the terms of
20 the employment contract, the employee's full wages for days missed due
21 to disability or injury, that medical leave pay shall be reduced by the
22 amount of disability compensation payments made under the Alaska Work-
23 men's Compensation Act.

24 * Sec. 9. AS 18.60 is amended by adding a new section to read:

25 Sec. 18.60.056. REPORTING OF INJURIES AND ILLNESSES. (a) In the
26 event of an employment accident which is fatal to one or more employees
27 or which results in the hospitalization of one or more employees, their
28 employer shall report the accident by telephone, telegram, radio, or in
29 person to the nearest office of the division of occupational safety and

1 health. The report must relate the circumstances of the accident, the
2 number of fatalities, and the extent of any injuries. The report must
3 be made immediately but in no event later than 24 hours after receipt by
4 the employer of information that the accident has occurred. No equip-
5 ment, material, or product related to the injury or fatality may be
6 moved or altered until clearance is given by the department, except when
7 compliance with this requirement would interfere for an unreasonable
8 length of time with work or create additional hazards. If equipment,
9 material, or products must be moved or altered before department clear-
10 ance, the employer shall submit a detailed investigative report of the
11 accident to the division.

12 (b) Any other injury or illness not required to be reported under
13 (a) of this section that is treated by a physician and results in loss
14 of work time must be reported to the division within 48 hours after
15 receipt by the employer of information that the accident or illness has
16 occurred.