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1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 159 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to workers' compensation; and provid-  
7 ing for an effective date."

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

9 \* Section 1. LEGISLATIVE INTENT. It is the intent of the legislature in  
10 enacting AS 23.30.041, added in sec. 5 of this Act, that an injured worker  
11 receive rehabilitation services that enhance his returning to suitable gain-  
12 ful employment as quickly as possible. In enacting AS 23.30.041, the legis-  
13 lature recognizes the following five rehabilitation goals of a workers'  
14 compensation program:

- 15 (1) early identification of injured workers who will eventually  
16 need rehabilitation;
- 17 (2) use of competent rehabilitation providers;
- 18 (3) opportunities for return to direct employment;
- 19 (4) maintaining an atmosphere conducive to rehabilitation;
- 20 (5) providing incentives and removing disincentives to rehabili-  
21 tation.

22 \* Sec. 2. AS 23.30.025 is amended by adding a new subsection to read:

23 (c) An insurer may issue a policy of insurance insuring the pay-  
24 ment of benefits under this chapter that provides for a deductible  
25 amount to be paid by the employer. A policy with a deductible provision  
26 must be approved by the director of insurance and must provide that the  
27 deductible amount be paid by the insurer to the employee on behalf of  
28 the employer. After payment of the deductible by the insurer, the  
29 insurer may recover the deductible amount from the employer. The fail-

1 ure of an employer to reimburse an insurer for the deductible amount  
2 does not relieve the insurer from any other obligation it may have under  
3 the policy of insurance. An insurer is not required to apply for a  
4 deviation under AS 21.39.070 in order to issue a policy under this  
5 subsection. This subsection does not apply to a policy of excess insur-  
6 ance purchased by a self-insurer.

7 \* Sec. 3. AS 23.30.040(b) is amended to read:

8 (b) If an employee suffers a compensable injury that results in  
9 temporary total disability, temporary partial disability, permanent  
10 partial disability, or permanent total disability, the employer or  
11 insurance carrier shall contribute to the second injury fund. The  
12 contribution shall be made by one year from the date of the injury or on  
13 termination of the employee's claim, whichever is sooner. If the claim  
14 is not terminated within one year, subsequent contributions shall be  
15 made yearly until the termination of the employee's claim. The amount  
16 of the contribution is the product of the compensation to which the  
17 employee is entitled for temporary total disability, temporary partial  
18 disability, permanent partial disability, permanent total disability, or  
19 for rehabilitation under AS 20.30.041 [AS 23.30.191] and the applicable  
20 contribution rate set out in column A of this subsection. Payment need  
21 not be made to the second injury fund if the total contribution under  
22 this section is less than \$20. By December 15 of each year the commis-  
23 sioner shall determine and make available to the public the applicable  
24 contribution rate for the following calendar year according to the  
25 reserve rate of the second injury fund in column B of this subsection:

26	Column A	Column B	
27	Second Injury Fund	Reserve Rate	
28	Contribution Rate	At Least	But Less Than
29	(Percent)	(Percent)	(Percent)

1	6	0	50
2	5	50	75
3	4	75	100
4	3	100	125
5	2	125	150
6	1	150	175
7	0	175	

8 \* Sec. 4. AS 23.30.040(e) is repealed and reenacted to read:

9 (e) The board may authorize payment from the second injury fund of

10 (1) up to \$200 per month for maintenance to an employee being  
 11 rehabilitated under AS 23.30.041 who suffers an extreme financial hard-  
 12 ship;

13 (2) vocational rehabilitation expenses for books, tuition,  
 14 tools and supplies.

15 \* Sec. 5. AS 23.30 is amended by adding a new section to read:

16 Sec. 23.30.041. REHABILITATION OF INJURED WORKERS. (a) The board  
 17 shall select and employ a rehabilitation administrator and may authorize  
 18 the rehabilitation administrator to select and employ additional rehabi-  
 19 litation staff. The rehabilitation administrator is in the partially  
 20 exempt service under AS 39.25.120.

21 (b) The rehabilitation administrator shall implement the provi-  
 22 sions of this section, study the issue of rehabilitation, both physical  
 23 and vocational, on a continuing basis, and shall investigate and main-  
 24 tain a directory of qualified rehabilitation facilities, agencies, and  
 25 providers, both public and private.

26 (c) When an employee suffers an injury covered by this chapter  
 27 that precludes return to suitable gainful employment, the employer shall  
 28 at its own expense promptly provide necessary and appropriate rehabili-  
 29 tation services and may make cooperative arrangements with insurance

1 carriers, private organizations and institutions, or state and federal  
2 agencies. If rehabilitation services are not voluntarily offered, as  
3 prescribed by regulations of the board, the rehabilitation administra-  
4 tor, if he considers the services necessary and appropriate, may retain  
5 a rehabilitation provider at the expense of the employer or carrier to  
6 evaluate an employee and develop a rehabilitation plan.

7 (d) Vocational rehabilitation services may not exceed 37 weeks,  
8 except that vocational rehabilitation services may be extended an addi-  
9 tional 37 weeks if the rehabilitation administrator determines that  
10 special circumstances exist. Nothing in this subsection prohibits an  
11 employer or carrier from providing extended vocational rehabilitation  
12 services on a voluntary basis. If rehabilitation requires residence  
13 away from the employee's customary residence, reasonable cost of board,  
14 lodging, and travel shall be paid by the employer. Temporary disability  
15 under AS 23.30.185 or AS 23.30.200 shall be paid throughout the rehabi-  
16 litation process.

17 (e) The employer and employee may agree on a vocational rehabili-  
18 tation plan. If the employer and employee fail to agree on a vocational  
19 rehabilitation plan, any of the parties may file a plan for approval  
20 with the rehabilitation administrator. The rehabilitation administrator  
21 shall approve or modify and approve a plan within 14 days after the plan  
22 is filed.

23 (f) Within 10 days of the rehabilitation administrator's decision  
24 to approve or modify and approve a rehabilitation plan any party may  
25 seek review of the decision by requesting a hearing in accordance with  
26 AS 23.30.110. A decision by the rehabilitation administrator is valid  
27 unless a showing of clear error is made.

28 (g) Refusal by an injured employee to participate in an evaluation  
29 or a rehabilitation plan approved by the rehabilitation administrator

1 results in forfeiture of disability compensation for the period the  
2 refusal continues. However, if an employee begins participation in an  
3 evaluation or rehabilitation plan within two months from the date of  
4 refusal, and successfully completes the evaluation or rehabilitation  
5 plan and becomes employed for a period of 30 consecutive business days  
6 following the completion of the rehabilitation program, the employee  
7 shall receive a lump-sum payment of 25 percent of the compensation  
8 forfeited by him. The lump-sum payment is available only once to an  
9 employee refusing rehabilitation. The rehabilitation administrator may  
10 find that an employee refuses to participate in an evaluation or rehab-  
11 ilitation plan if the employee fails to cooperate with the rehabilita-  
12 tion provider.

13 \* Sec. 6. AS 23.30.045(a) is amended to read:

14 (a) An employer is liable for and shall secure the payment to his  
15 employees of the compensation payable under AS 23.30.041, 23.30.050,  
16 23.30.095, 23.30.145, and 23.30.180 - 23.30.215. If the employer is a  
17 subcontractor, the contractor is liable for and shall secure the payment  
18 of the compensation to employees of the subcontractor unless the subcon-  
19 tractor secures the payment.

20 \* Sec. 7. AS 23.30.045(c) is amended to read:

21 (c) For a person eligible for vocational rehabilitation service  
22 under this chapter or AS 23.15.080 [AND] who is placed with an employer  
23 for service [WITHOUT WAGES] at the request of the board or the division  
24 [OFFICE] of vocational rehabilitation to provide [GIVE HIM] on the job  
25 training, work readiness, [OR] work therapy experience [,] or work  
26 sampling, the liability set out in (a) of this section applies to the  
27 state rather than to the employer.

28 \* Sec. 8. AS 23.30.080 is amended by adding a new subsection to read:

29 (d) If an employer fails to insure or provide security as required

1 by AS 23.30.075, the board may issue a stop order prohibiting the use of  
2 employee labor by the employer until the employer insures or provides  
3 security as required by AS 23.30.075. The failure of an employer to  
4 file evidence of compliance as required by AS 23.30.085 creates a rebut-  
5 able presumption that the employer has failed to insure or provide  
6 security as required by AS 23.30.075. If an employer fails to comply  
7 with a stop order issued under this section, the board shall assess a  
8 civil penalty of \$1,000 per day. The employer may not obtain a public  
9 contract with the state or a political subdivision of the state for  
10 three years following the violation of the stop order.

11 \* Sec. 9. AS 23.30.095(c) is amended to read:

12 (c) No claim for medical or surgical treatment is valid and en-  
13 forceable as against the employer unless, within 20 [TWENTY] days follow-  
14 ing the first treatment and following the time set by the board for  
15 notice of subsequent treatments, the physician giving the treatment or  
16 the employee receiving it furnishes to the employer and the board notice  
17 of the injury and treatment, preferably on a form prescribed by the  
18 board. The board shall [MAY], however, excuse the failure to furnish  
19 notice within 20 days when it finds it to be in the interest of justice  
20 to do so, and it may, upon application by a party in interest, make an  
21 award for the reasonable value of the medical or surgical treatment so  
22 obtained by the employee.

23 \* Sec. 10. AS 23.30.095(e) is amended to read:

24 (e) The employee shall, after an injury, at reasonable times  
25 during the continuance of his disability if requested by his employer  
26 or, when ordered by the board, submit himself to an examination by a  
27 physician or surgeon authorized to practice medicine under the laws of  
28 the state in which the employee may be found, furnished and paid for by  
29 the employer. [THE EMPLOYEE HAS THE RIGHT TO HAVE A PHYSICIAN, PAID FOR

1 BY THE EMPLOYER, PRESENT AT THE EXAMINATION OR EXAMINATIONS.] No fact  
2 relative to the injury or claim communicated to or otherwise learned by  
3 a physician or surgeon who may have attended or examined the employee,  
4 or who may have been present at an examination is privileged, either in  
5 the hearings provided for in this chapter or an action to recover  
6 damages against an employer who is subject to the compensation provi-  
7 sions of this chapter. If an employee refuses to submit himself to any  
8 examination provided for in this section [HEREIN], his rights to compen-  
9 sation shall be suspended until the obstruction or refusal ceases, and  
10 his compensation during the period of suspension may, in the discretion  
11 of the board or the court determining an action brought for the recovery  
12 of damages under this chapter [HEREUNDER], be forfeited. The board in  
13 any case of death may require an autopsy at the expense of the party  
14 requesting the autopsy. No autopsy may be held without notice first  
15 being given to the widow or widower or next of kin if they reside in the  
16 state or their whereabouts can be reasonably ascertained, of the time  
17 and place of the autopsy and reasonable time and opportunity given the  
18 widow or widower or next of kin to have a representative present to  
19 witness the autopsy. If no adequate notice is given, the findings from  
20 the autopsy may be suppressed on motion made to the board or to the  
21 superior court, as the case may be.

22 \* Sec. 11. AS 23.30.095 is amended by adding a new section to read:

23 (j) The board shall adopt and use a schedule for determining the  
24 existence and degree of permanent impairment consistent with the Ameri-  
25 can Medical Association Guide to the Evaluation of Permanent Impairment.

26 \* Sec. 12. AS 23.30 is amended by adding a new section to article 3 to  
27 read:

28 AS 23.30.097. RELEASE OF INFORMATION. Upon request by the rehab-  
29 ilitation administrator the employee shall provide written authority to

1 the rehabilitation administrator to obtain medical and rehabilitation  
2 information relative to the employee's injury.

3 \* Sec. 13. AS 23.30.100(d)(2) is amended to read:

4 (2) if the board excuses the failure on the ground that for  
5 some satisfactory reason notice could not be given; however, if delay  
6 in giving notice is excused by the board, the burden of proof of the  
7 validity of the claim shifts to the employee notwithstanding the pro-  
8 visions of AS 23.30.120;

9 \* Sec. 14. AS 23.30.110(c) is amended to read:

10 (c) The board shall make the investigation which it considers  
11 necessary with [IN] respect to [OF] the claim, and upon application of  
12 an interested party shall provide an opportunity for [ORDER] a hearing  
13 on it. If a hearing on a claim is ordered, the board shall give the  
14 claimant and other interested parties at least 10 days' notice of the  
15 hearing, served personally upon the claimant and other interested parties  
16 or sent by registered mail, and shall, within 30 [20] days after the  
17 hearing record closes [IS HAD], by order, reject the claim or make an  
18 award in respect to it. If a hearing is continued by the board, addi-  
19 tional notice under this subsection is not required. [IF NO HEARING IS  
20 ORDERED WITHIN 20 DAYS AFTER NOTICE IS GIVEN AS PROVIDED IN (b) OF THIS  
21 SECTION, THE BOARD SHALL BY ORDER REJECT THE CLAIM OR MAKE AN AWARD IN  
22 RESPECT TO IT.]

23 \* Sec. 15. AS 23.30.120(3) is amended to read:

24 (3) the injury was not proximately caused by the intoxication  
25 of the injured employee or occasioned solely by the [INTOXICATION OF THE  
26 INJURED] employee being under the influence of drugs unless the drugs  
27 were taken as prescribed by the employee's physician;

28 \* Sec. 16. AS 23.30 is amended by adding a new section to read:

29 Sec. 23.30.122. CREDIBILITY OF WITNESSES. The board has the sole

1 power to determine the credibility of a witness. A finding by the board  
2 concerning the weight to be accorded a witness's testimony, including  
3 medical testimony and reports, is conclusive even if the evidence is  
4 conflicting or susceptible to contrary conclusions. The findings of the  
8 board are subject to the same standard of review as a jury's finding in  
6 a civil action.

7 \* Sec. 17. AS 23.30.155(j) is amended to read:

8 (j) If an employer has made advance payments or overpayments of  
9 compensation, he is entitled to be reimbursed, after approval by the  
10 board, out of any unpaid installment or installments of compensation  
11 due.

12 \* Sec. 18. AS 23.30.175(a) is amended to read:

13 (a) The weekly rate of compensation for disability or death for a  
14 recipient residing in Alaska may not exceed the percentage of the Alaska  
15 average weekly wage in effect on the date of injury as determined by the  
16 table contained in this subsection and initially may not be less than  
17 \$110 [\$65] a week. However, if the board determines that the employee's  
18 spendable [AVERAGE] weekly wages are less than \$110 [\$65] a week as  
19 computed under AS 23.30.220, it shall issue an order decreasing the  
20 weekly rate of compensation to a rate equal to the employee's spendable  
21 [AVERAGE] weekly wages, and payments made earlier in excess of the  
22 decreased rate shall be deducted from the unpaid compensation in the  
23 manner the board determines. In any case, the employer shall pay timely  
24 compensation.

25	On	The Rate Shall Be
26	July 1, 1975	80 percent of the Alaska
27		average weekly wage
28	January 1, 1976	100 percent of the Alaska
29		average weekly wage

1 January 1, 1977 133.3 percent of the Alaska  
2 average weekly wage  
3 January 1, 1979 166.6 percent of the Alaska  
4 average weekly wage  
5 January 1, 1981 200 percent of the Alaska  
6 average weekly wage

7 \* Sec. 19. AS 23.30.175(b) is repealed and reenacted to read:

8 (b) After June 30 and before December 1 of each year, the commis-  
9 sioner shall adopt and publish the average weekly wage for each juris-  
10 diction for the preceding calendar year as published by the United  
11 States Secretary of Labor for the purposes of unemployment insurance.  
12 In determining the rate of compensation the commissioner shall use the  
13 average weekly wage figure for each jurisdiction, including Alaska, for  
14 which the Secretary of Labor computes an average weekly wage. These  
15 figures are the applicable average weekly wages for those jurisdictions  
16 for the following calendar year.

17 \* Sec. 20. AS 23.30.175(c) is repealed and reenacted to read:

18 (c) The following rules apply to recipients who do not reside in  
19 Alaska:

20 (1) The weekly rate of compensation shall be calculated by  
21 multiplying the recipient's weekly compensation rate calculated in  
22 accordance with AS 23.30.180, 23.30.185, 23.30.190, 23.30.200, or 23.30.-  
23 215 times the ratio of the average weekly wage of the jurisdiction in  
24 which the recipient resides to the average weekly wage of Alaska. The  
25 ratio is based on the average weekly wages in effect when the recipient  
26 leaves Alaska and shall be adjusted annually upon publication of the  
27 average weekly wages for all jurisdictions.

28 (2) The calculation required by this subsection does not  
29 apply if the recipient is absent from Alaska for medical or rehabilita-

1 tion services not reasonably available in Alaska.

2 (3) If the spendable weekly wage of the recipient and the  
3 resulting compensation rate is determined under AS 23.30.220(2), the  
4 calculation required by this subsection applies to only those gross  
5 earnings earned in Alaska.

6 (4) Application of this subsection may not result in a reduc-  
7 tion of the weekly compensation rate to less than \$110 a week except as  
8 provided in (a) of this section.

9 \* Sec. 21. AS 23.30.175(d) is repealed and reenacted to read:

10 (d) In a jurisdiction for which no average weekly wage is computed  
11 by the United States Secretary of Labor for the purposes of unemployment  
12 insurance, the average weekly wage shall be as determined by the commis-  
13 sioner.

14 \* Sec. 22. AS 23.30.180 is amended to read:

15 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total  
16 disability adjudged to be permanent 80 [66 2/3] percent of the injured  
17 employee's spendable [AVERAGE] weekly wages shall be paid to the  
18 employee during the continuance of the total disability. Loss of both  
19 hands, or both arms, or both feet, or both legs, or both eyes, or of any  
20 two of them, in the absence of conclusive proof to the contrary, consti-  
21 tutes permanent total disability. In all other cases permanent total  
22 disability is determined in accordance with the facts.

23 \* Sec. 23. AS 23.30.185 is amended to read:

24 Sec. 23.30.185. COMPENSATION FOR TEMPORARY TOTAL DISABILITY. In  
25 case of disability total in character but temporary in quality, 80 [66  
26 2/3] percent of the injured employee's spendable [AVERAGE] weekly wages  
27 shall be paid to the employee during the continuance of the disability.

28 \* Sec. 24. AS 23.30.190 is amended to read:

29 Sec. 23.30.190. COMPENSATION FOR PERMANENT PARTIAL DISABILITY.

1 (a) In case of disability partial in character but permanent in quality  
2 the compensation is 80 [66 2/3] percent of the injured employee's  
3 spendable [AVERAGE] weekly wages in addition to compensation for tempor-  
4 ary total disability or temporary partial disability paid in accordance  
5 with AS 23.30.185 or 23.30.200, respectively, and shall be paid to the  
6 employee as follows:

7 (1) arm lost, 280 weeks compensation, not to exceed \$59,000  
8 [\$43,680];

9 (2) leg lost, 248 weeks compensation, not to exceed \$54,400  
10 [\$40,320];

11 (3) hand lost, 212 weeks compensation, not to exceed \$45,400  
12 [\$33,600];

13 (4) foot lost, 173 weeks compensation, not to exceed \$39,700  
14 [\$28,700];

15 (5) eye lost, 140 weeks compensation, not to exceed \$30,200  
16 [\$22,400];

17 (6) thumb lost, 51 weeks compensation, not to exceed \$14,000  
18 [\$10,400];

19 (7) first finger lost, 28 weeks compensation, not to exceed  
20 \$8,700 [\$6,440];

21 (8) great toe lost, 26 weeks compensation, not to exceed  
22 \$7,200 [\$5,320];

23 (9) second finger lost, 18 weeks compensation, not to exceed  
24 \$5,700 [\$4,200]; third finger lost, 18 weeks compensation, not to exceed  
25 \$4,700 [\$3,500];

26 (10) toe other than great toe lost, eight weeks compensation,  
27 not to exceed \$3,000 [\$2,240];

28 (11) fourth finger lost, seven weeks compensation, not to  
29 exceed \$2,800 [\$2,100];

1 (12) loss of hearing of one ear, 52 weeks compensation, not  
2 exceeding \$9,800 [\$7,280]; loss of hearing of both ears, 200 weeks  
3 compensation, not to exceed \$37,800 [\$28,000];

4 (13) compensation for loss of more than one phalange of a  
5 digit shall be the same as for loss of the entire digit; compensation  
6 for loss of the first phalange is one-half of the compensation for loss  
7 of the entire digit;

8 (14) amputation between the elbow and the wrist is considered  
9 equivalent to the loss of an arm, and amputation between the knee and  
10 ankle is considered equivalent to the loss of a leg;

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

13 (16) compensation for loss of two or more digits, or one or  
14 more phalanges of two or more digits of a hand or foot may be propor-  
15 tioned to the resulting loss of use of the injured hand or foot, but may  
16 not exceed the compensation for loss of a hand or foot;

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

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

21 (19) in addition to other allowable compensation, the board  
22 shall award proper and equitable compensation up to \$10,000 for

23 (A) serious disfigurement of face, head and, when such  
24 disfigurement is likely to handicap the employee in securing or  
25 holding employment, for serious disfigurement of neck or limbs  
26 normally exposed, or

27 (B) partial or total loss of or loss of use of a part or  
28 function of the body not otherwise provided for under this section;

29 (20) in all other cases in this class of disability the compen-

1 sation is 80 [66 2/3] percent of the difference between his spendable  
2 [AVERAGE] weekly wages and his wage-earning capacity after the injury in  
3 the same employment or otherwise, payable during the continuance of the  
4 partial disability, but subject to modification [RECONSIDERATION OF THE  
5 DEGREE OF THE IMPAIRMENT] by the board on its own motion or upon appli-  
6 cation of a party in interest; whenever the board determines that it is  
7 in the interest of justice, the liability of the employer for compensa-  
8 tion, or any part of it as determined by the board, may be discharged by  
9 the payment of a lump sum;

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

17 (b) Total compensation paid under (a)(20) of this section may not  
18 exceed \$75,000 [\$60,000].

19 \* Sec. 25. AS 23.30.200 is amended to read:

20 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempor-  
21 ary partial disability resulting in decrease of earning capacity the  
22 compensation shall be 80 [66 2/3] percent of the difference between the  
23 injured employee's spendable [AVERAGE] weekly wages before the injury  
24 and his wage earning capacity after the injury in the same or another  
25 employment, to be paid during the continuance of the disability, but not  
26 to be paid for more than five years.

27 \* Sec. 26. AS 23.30.210 is amended to read:

28 Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. In a  
29 case of partial disability under AS 23.30.190(20) or 23.30.200 the

1 wage-earning capacity of an injured employee is determined by his actual  
2 spendable weekly wage [EARNINGS] if the actual spendable weekly wage  
3 [EARNINGS] fairly and reasonably represent his wage-earning capacity.  
4 If the employee has no actual spendable weekly wage [EARNINGS] or his  
5 actual spendable weekly wage does [EARNINGS DO] not fairly and reasonably  
6 represent his wage-earning capacity, the board may, in the interest of  
7 justice, fix the wage-earning capacity which is reasonable, having due  
8 regard to the nature of his injury, the degree of physical impairment,  
9 his usual employment, and any other factors or circumstances in the case  
10 which may affect his capacity to earn wages in his disabled condition,  
11 including the effect of disability as it may naturally extend into the  
12 future.

13 \* Sec. 27. AS 23.30.215(a) is amended to read:

14 (a) If the injury causes death, the compensation is known as a  
15 death benefit and is payable in the following amounts to or for the  
16 benefit of the following persons:

17 (1) reasonable and necessary funeral expenses not exceeding  
18 \$2,500 [\$1,000];

19 (2) if there is a widow or widower or a child or children of  
20 the deceased, the following percentages of the spendable [AVERAGE]  
21 weekly wages of the deceased:

22 (A) 80 [66 2/3] percent for the widow or widower with no  
23 children;

24 (B) 40 [33 1/3] percent for the widow or widower with  
25 one child and 40 [33 1/3] percent for the child;

26 (C) 25 [20] percent for the widow or widower with two or  
27 more children and 55 [46 2/3] percent divided equally among the  
28 children;

29 (D) repealed;

1 (E) 80 [66 2/3] percent for an only child when there is  
2 no widow or widower;

3 (F) repealed;

4 (G) 80 [66 2/3] percent, divided equally, if there are  
5 two or more children and no widow or widower;

6 (3) if the widow or widower remarries, she or he is entitled  
7 to be paid in one sum an amount equal to the compensation to which the  
8 widow or widower would otherwise be entitled in the two years commencing  
9 on the date of remarriage as full and final settlement of all sums due  
10 the widow or widower;

11 (4) if there is no widow or widower or child or children,  
12 then for the support of father, mother, grandchildren, brothers and  
13 sisters, if dependent upon the deceased at the time of injury, 42 [35]  
14 percent of the spendable [AVERAGE] weekly wage of the deceased to such  
15 beneficiaries, share and share alike, not to exceed \$20,000 in the  
16 aggregate.

17 \* Sec. 28. AS 23.30.215(b) is amended to read:

18 (b) In computing death benefits, the spendable [AVERAGE] weekly  
19 wage of the deceased shall be computed under AS 23.30.220 and shall be  
20 paid in accordance with AS 23.30.155 and subject to the weekly maximum  
21 limitation in the aggregate as provided in AS 23.30.175, but the total  
22 weekly compensation may not be less than \$75 [\$45] for a widow or widower  
23 nor less than \$25 [\$15] weekly to a child or \$50 [\$30] for children.

24 \* Sec. 29. AS 23.30.220 is repealed and reenacted to read:

25 Sec. 23.30.220. DETERMINATION OF SPENDABLE WEEKLY WAGE. The  
26 spendable weekly wage of the injured employee at the time of the injury  
27 is the basis for computing compensation. It is the employee's gross  
28 weekly earnings minus payroll tax deductions. The gross weekly earnings  
29 shall be calculated as follows:

1 (1) If at the time of the injury the employee has been in the  
2 gainful employ of the employer for the full reporting quarter immediately  
3 before the time of injury, the gross weekly earnings are computed by  
4 dividing by 13 the gross earnings the employee earned in the employ of  
5 the employer in that reporting quarter.

6 (2) If at the time of the injury the employee has not been in  
7 the employ of the employer for the full reporting quarter immediately  
8 before the time of injury, the gross weekly earnings are computed by  
9 dividing by 100 the gross earnings of the employee in the two calendar  
10 years immediately preceding the injury.

11 (3) If the board determines that the gross weekly earnings at  
12 the time of the injury cannot be fairly calculated under (1) or (2) of  
13 this section, or cannot otherwise be ascertained without undue hardship  
14 to the employee, the gross weekly earnings for calculating compensation  
15 are the usual gross earnings for similar service rendered by paid  
16 employees under similar circumstances as determined by the board.

17 (4) If an employee when injured is a minor or an apprentice,  
18 or a trainee, as determined by the board, whose wages under normal  
19 conditions would increase during the period of disability, the projected  
20 increase may be considered by the board in computing his gross weekly  
21 earnings.

22 (5) If the employee is injured while performing his duties as  
23 a volunteer ambulance attendant, policeman, or fireman, the gross weekly  
24 earnings for calculating compensation shall be the minimum gross weekly  
25 earnings paid a full-time ambulance attendant, policeman, or fireman  
26 employed in the political subdivision where the injury occurred, or, if  
27 the political subdivision has no full-time ambulance attendants, police-  
28 men, or firemen, at a reasonable figure previously set by the political  
29 subdivision to make this determination but in no case may the gross

1 weekly earnings for calculating compensation be less than the minimum  
2 wage computed on the basis of 40 hours work per week.

3 \* Sec. 30. AS 23.30 is amended by adding a new section to read:

4 Sec. 23.30.227. EFFECT OF UNEMPLOYMENT BENEFITS. Compensation is  
5 not payable to an employee under AS 23.30.180 or 23.30.185 for a week in  
6 which the employee receives unemployment benefits.

7 \* Sec. 31. AS 23.30.235 is repealed and reenacted to read:

8 Sec. 23.30.235. CASES IN WHICH NO COMPENSATION IS PAYABLE. Compen-  
9 sation under this chapter may not be allowed for an injury

10 (1) proximately caused by the employee's wilful intent to  
11 injure or kill himself or another;

12 (2) proximately caused by intoxication of the injured employee  
13 or occasioned solely by the employee being under the influence of drugs  
14 unless the drugs were taken as prescribed by the employee's physician.

15 \* Sec. 32. AS 23.30.250 is amended to read:

16 Sec. 23.30.250. PENALTY FOR MISREPRESENTATION. A person who wil-  
17 fully makes a false or misleading statement or representation for the  
18 purpose of obtaining or denying a benefit or payment under this chapter  
19 is guilty of theft by deception as defined in AS 11.46.180 and is pun-  
20 ishable as provided in 11.46.120 - 11.46.150 [A MISDEMEANOR, AND UPON  
21 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRI-  
22 SONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH].

23 \* Sec. 33. AS 23.30.255(a) is amended to read:

24 (a) An employer required to secure the payment of compensation  
25 under this chapter who fails to do so is guilty of a class B felony if  
26 the amount involved exceeds \$25,000 or a class C felony if the amount  
27 involved is \$25,000 or less [MISDEMEANOR AND UPON CONVICTION IS PUNISH-  
28 ABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR NOT MORE  
29 THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation, its

1 president, secretary, and treasurer are also severally liable to the  
2 fine or imprisonment imposed [PROVIDED IN THIS SECTION] for the failure  
3 of the corporation to secure the payment of compensation. The presi-  
4 dent, secretary, and treasurer are severally personally liable, jointly  
5 with the corporation, for the compensation or other benefit which accrues  
6 under this chapter in respect to an injury which happens to an employee  
7 of the corporation while it has failed to secure the payment of compen-  
8 sation as required by AS 23.30.075.

9 \* Sec. 34. AS 23.30.255(b) is amended to read:

10 (b) An employer who knowingly transfers, sells, encumbers, assigns,  
11 or in any manner disposes of, conceals, secretes, or destroys any of his  
12 property after one of his employees has been injured within the scope of  
13 this chapter, with intent to avoid the payment of compensation under  
14 this chapter to the employee or his dependents, is guilty of a class B  
15 felony if the amount involved exceeds \$25,000 or a class C felony if  
16 the amount involved is \$25,000 or less [MISDEMEANOR, AND UPON CONVICTION  
17 IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY IMPRISONMENT FOR  
18 NOT MORE THAN ONE YEAR, OR BY BOTH]. If the employer is a corporation,  
19 its president, secretary, and treasurer are also severally liable to the  
20 penalty of imprisonment as well as jointly liable with the corporation  
21 for the fine.

22 \* Sec. 35. AS 23.30.265 is amended by adding new paragraphs to read:

23 (29) "arising out of and in the course of employment" includes  
24 employer-required or supplied travel to and from a remote job site;  
25 activities performed at the direction or under the control of the  
26 employer; and employer-sanctioned activities at employer-provided facili-  
27 ties; but excludes activities of a personal nature away from employer-  
28 provided facilities;

29 (30) "drugs" means a controlled substance as defined by law;

1 (31) "gross earnings" means recurring payments, by an employer  
2 to an employee for employment before any authorized or lawfully required  
3 deduction or withholding of money by the employer, including compensa-  
4 tion that is deferred at the option of the employee, and excluding  
5 irregular bonuses, reimbursement of expenses, expense allowances, and  
6 any benefit or payment to the employee that is not taxable to the  
7 employee during the pay period; the value of room and board to the  
8 employee may be considered in determining gross earnings for those  
9 employees with gross weekly earnings that are less than the Alaska  
10 average weekly wage at the time of injury;

11 (32) "gross weekly earnings" means gross weekly earnings as  
12 calculated under AS 23.30.220;

13 (33) "payroll taxes" means (A) the amount that would be with-  
14 held under withholding tables in effect on the January 1 preceding the  
15 injury under the Internal Revenue Code of 1954 (as amended) and regula-  
16 tions issued under the code, as though the employee had claimed the  
17 maximum number of dependents for actual dependency, blindness, and old  
18 age to which the employee is entitled on the date on which he is injured;  
19 and (b) if the employer is subject to the Social Security Act of 1935 as  
20 amended, the amount that would be deducted or withheld as of the Janu-  
21 ary 1 preceding the injury under that act from the amount of earnings of  
22 the employee at the time of the injury as if the earnings were earned at  
23 the beginning of the calendar year in which he was injured and regardless  
24 of whether the amount was actually withheld or the earnings were subject  
25 to withholding; the commissioner shall annually prepare formulas that  
26 shall be used to calculate an employee's spendable weekly wage on the  
27 basis of his gross weekly earnings, number of dependents, marital status,  
28 and payroll tax deductions;

29 (34) "reporting quarter" means one of the three-month periods

1 (January through March, April through June, July through September,  
2 October through December) used to report employee wages to the Internal  
3 Revenue Service;

4 (35) "suitable gainful employment" means employment that is  
5 reasonably attainable in light of an individual's age, education, pre-  
6 vious occupation, and injury, and that offers an opportunity to restore  
7 the individual as soon as practical to a remunerative occupation and as  
8 nearly as possible to his gross weekly earnings as determined at the  
9 time of injury.

10 \* Sec. 36. AS 39.25.120 is amended by adding a new paragraph to read:

11 (20) the rehabilitation administrator of the Workers' Compensa-  
12 tion Board.

13 \* Sec. 37. AS 23.30.095(g), 23.30.125(b), 23.30.175(e) and (f), 23.30.-  
14 191, and 23.30.265(20) are repealed.

15 \* Sec. 38. The board shall publish AS 23.30.235 and AS 23.30.250 as  
16 enacted in secs. 31 and 32 of this Act as part of a document describing the  
17 employee's rights and obligations under the Alaska Workers' Compensation Act.  
18 The publication shall be mailed or otherwise made available to an injured  
19 worker upon notice of an injury.

20 \* Sec. 39. Sections 5, 18 - 29, 31, and 35 of this Act apply only to  
21 injuries sustained after the effective date of this Act.

22 \* Sec. 40. This Act takes effect July 1, 1982.  
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