CHAPTER 141

AN ACT

Pertaining to Workmen's Compensation to amend Sub-section 43-3-1 E. and Section 43-3-2 ACLA 1949 as amended by Chapter 60 SLA 1953, and to repeal Sub-section 43-3-1 N. ACLA 1949 as amended by Chapter 60, SLA 1953.

(H. B. 218)

Be it Enacted by the Legislature of the Territory of Alaska:

Section 1. Sub-section 43-3-1 E, ACLA 1949 as amended by Chapter 60 SLA 1953 is hereby amended to read as follows:

E. **Temporary Disability.** For all injuries causing temporary disability, the employer shall pay the employee, during the period of such disability, sixty-five per centum (65%) of his daily average wages. Such compensation for temporary total disability shall not exceed the sum of $100 per week and such period of temporary total disability shall not exceed twenty-four months from and after date of injury. And in all cases where the injury develops or proves to be such as to entitle the employee to compensation under some provision in this schedule, relating to cases other than temporary disability, the amount so paid or due him shall be in addition to the amount to which he shall be entitled under such provision in this schedule.

Payment for such temporary disability shall be made at the time compensation is customarily paid for labor performed or services rendered at the plant or establishment of the employer liable therefor and not less than once a month in any event.

The average daily wage earning capacity of an injured employee in case of temporary disability shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his daily wage earning capacity. If such earnings do not fairly and reasonably represent his daily wage earning capacity, the Industrial Board shall fix such daily wage earning capacity as shall be reasonable and have a due regard for the nature of his injury, the degree of temporary impairment, his usual employment and any other factor or circumstance in the case which may affect his capacity to earn wages in his temporary disabled condition.

Section 2. Section 43-3-2 ACLA 1949 as amended by Chapter 60 SLA 1953 is hereby amended to

read as follows:

Treatment and Care of Injured Employees: Duty and Liability of Employer: Duration: Prevailing Fees: Selection of Physicians, Surgeons, Chiropractors, Osteopaths and Hospitals: Aggravation of Injuries by Incompetence or Neglect of Physician, Surgeon, Chiropractor or Osteopath: Liability: Right of Employee to Provide Physician, Surgeon, Chiropractor or Osteopath. The employer shall promptly provide for an injured employee such medical, surgical, chiropractic, osteopathic or other attendance or treatment, nurse and hospital service, medicine, crutches and apparatus for such period as the nature of the injury or the process of recovcry may require, not exceeding four years from and after the date of injury to any such employee. The employer shall be liable for the payment of the expenses of medical, surgical, chiropractic, osteopathic or other attendance or treatment, nurse, and hospital service, medicine, crutches, and apparatus necessitated by the injury of an employee, for such period as the nature of the injury or the process of recovery may require, not exceeding four years from and after the date of injury to any such employee. All fees and other charges for such treatment and services shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living. The employer shall have the exclusive right, and it shall be his duty to select and furnish the necessary physicians, surgeons, chiropractors, osteopaths and hospitals and to that end he may enter into all necessary contracts with such physicians, surgeons, chiropractors, osteopaths and hospitals for the furnishing of such services and treatments. Provided, that if it be made to appear in any suit, action or proceeding brought against the employer that the injuries sustained by the employee were aggravated on account of the incompetence or neglect of the physician, surgeon, chiropractor or osteopath selected by the employer, it shall be prima facie evidence that the employer failed to use due care in the selection of such physician, surgeon, chiropractor or osteopath and in such case the employer and physician, surgeon, chiropractor or osteopath shall be jointly and separately liable for all damages resulting from such incompetence or neglect. Nothing contained in this section shall be construed to limit the right of the employee, to provide in any case, at his own expense, a consulting physician, surgeon, chiropractor or osteopath or any attending physician, surgeon, chiropractor or osteopath whom he may desire.

Section 3. Sub-section 43-3-1 N. ACLA 1949 as amended by Chapter 60 SLA 1953 is hereby repealed.

Approved March 28, 1955