



LAWS OF ALASKA

1981

Source

CSHB 94(Fin) am

Chapter No.

59

AN ACT

Relating to workers' compensation; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 10, 1981
Actual Effective Date: July 11, 1981

AN ACT

Relating to workers' compensation; and providing for an effective date.

* Section 1. AS 23.30.005(a) is amended to read:

(a) The Alaska Workers' Compensation Board shall consist of nine [SEVEN] members, including a southern panel of three members sitting for the first judicial district, a northern panel of three members sitting for the second and fourth judicial districts, [AND] a south-central panel of three members sitting for the third judicial district, and one panel of three members that may sit in any judicial district.

Each panel shall include the commissioner of labor or his designated representative, a representative of industry and a representative of labor. The latter two members of each panel shall be appointed by the governor. All panel members are subject to confirmation by a majority of the members of the legislature in joint session.

* Sec. 2. AS 23.30.040 is repealed and reenacted to read:

Sec. 23.30.040. SECOND INJURY FUND. (a) There is created a second injury fund, administered by the commissioner of labor. Money in the second injury fund may only be paid for the benefit of those persons entitled to payment of benefits from the second injury fund under this chapter. Payments from the second injury fund must be made by the commissioner of labor in accordance with the orders and awards of the board.

(b) If an employee suffers a compensable injury that results in

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temporary total disability, temporary partial disability, permanent partial disability, or permanent total disability, the employer or insurance carrier shall contribute to the second injury fund. The contribution shall be made by one year from the date of the injury or on termination of the employee's claim, whichever is sooner. If the claim is not terminated within one year, subsequent contributions shall be made yearly until the termination of the employee's claim. The amount of the contribution is the product of the compensation to which the employee is entitled for temporary total disability, temporary partial disability, permanent partial disability, permanent total disability, or for rehabilitation under AS 23.30.191 and the applicable contribution rate set out in column A of this subsection. By December 15 of each year the commissioner shall determine and make available to the public the applicable contribution rate for the following calendar year according to the reserve rate of the second injury fund in Column B of this subsection:

Column A		Column B	
Second Injury Fund		Reserve Rate	
Contribution Rate		At Least	But Less Than
(Percent)		(Percent)	(Percent)
6		0	50
5		50	75
4		75	100
3		100	125
2		125	150
1		150	175
0		175	-

(c) If an employee suffers a compensable injury that results in death and the employee is not survived by a widow, widower, child, or

dependent relative eligible to receive death benefits under AS 23.-30.215, the employer or insurance carrier shall pay \$10,000 to the second injury fund.

(d) The board may refund a payment made into the second injury fund if the employer or insurance carrier shows that it made the payment by mistake or inadvertence, or if it shows there existed at the time of the death of the employee a beneficiary entitled to benefits under AS 23.30.215.

(e) The board may direct and provide the vocational retraining and vocational rehabilitation of a permanently disabled person whose condition is a result of an injury compensable under this chapter by making cooperative arrangements with insurance carriers, private organizations and institutions, or state or federal agencies. The person being retrained or rehabilitated is entitled to receive additional compensation from the second injury fund for maintenance during the period of retraining and rehabilitation in the sum the board considers necessary, not to exceed \$200 a month. The total expenditures for maintenance, retraining, rehabilitation, and necessary transportation may not exceed \$10,000 for one person.

(f) All amounts collected as civil penalties under AS 23.30.-155(c) shall be paid into the second injury fund.

(g) The attorney general may investigate claims and hire expert witnesses necessary to prevent fraudulent or excessive claims for money in the second injury fund.

(h) Administration expenses of the state under this section and AS 23.30.205 shall be paid from the general fund.

* Sec. 3. AS 23.30.155 is amended to read:

Sec. 23.30.155. PAYMENT OF COMPENSATION. (a) Compensation under this chapter shall be paid periodically, promptly, and directly

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1 to the person entitled to it, without an award, except where liability
2 to pay compensation is controverted by the employer. To controvert a
3 claim the employer must file a notice, on a form prescribed by the
4 board, stating

5 (1) that the right of the employee to compensation is
6 controverted;

7 (2) the name of the employee;

8 (3) the name of the employer;

9 (4) the date of the alleged injury or death; and

10 (5) the type of compensation and all grounds upon which the
11 right to compensation is controverted.

12 (b) The first installment of compensation becomes due on the 14th
13 day after the employer has knowledge of the injury or death. On this
14 date all compensation then due shall be paid. Subsequent compensation
15 shall be paid in installments, every 14 days [SEMIMONTHLY], except
16 where the board determines that payment in installments should be made
17 monthly or at some other period.

18 (c) Upon making the first payment, and upon an increase, reduc-
19 tion, termination, suspension, resumption or a change in rate or type
20 of compensation paid [OF PAYMENT FOR ANY CAUSE], the employer shall
21 [IMMEDIATELY] notify the board within 14 days, on [IN ACCORDANCE WITH]
22 a form prescribed by the board, that payment of compensation has begun
23 or has been increased, reduced, terminated, resumed, changed, or sus-
24 pended, as the case may be. If the employer fails to notify the board
25 within 14 days, the board shall assess against the employer a civil
26 penalty of \$100 plus \$25 for each day in excess of 14 days that the
27 employer fails to give notice. Total penalties under this section may
28 not exceed \$2,500 for each failure to file a required report.

29 (d) If the employer controverts the right to compensation he

shall file with the board on or before the 14th day after he has knowledge of the alleged injury or death or on or before an installment of compensation payable without an award is due, a notice of controversion on [, IN ACCORDANCE WITH] a form prescribed by the board [, STATING THAT THE RIGHT TO COMPENSATION IS CONTROVERTED, THE NAME OF THE CLAIMANT, THE NAME OF THE EMPLOYER, THE DATE OF THE ALLEGED INJURY OR DEATH, AND THE GROUNDS UPON WHICH THE RIGHT TO COMPENSATION IS CONTROVERTED].

(e) If any installment of compensation payable without an award is not paid within 14 days after it becomes due, as provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 20 percent of it, which shall be paid at the same time as, and in addition to, the installment, unless notice is filed under (d) of this section or unless the nonpayment is excused by the board after a showing by the employer that owing to conditions over which he had no control the installment could not be paid within the period prescribed for the payment.

(f) If compensation payable under the terms of an award is not paid within 14 days after it becomes due, there shall be added to that [SUCH] unpaid compensation an amount equal to 20 percent of it, which shall be paid at the same time as, but in addition to, the compensation, unless review of the compensation order making the award is had as provided in AS 23.30.125 and an interlocutory injunction staying payments is allowed by the court.

[(g) WITHIN 16 DAYS AFTER FINAL PAYMENT OF COMPENSATION HAS BEEN MADE, THE EMPLOYER SHALL SEND TO THE BOARD A NOTICE IN ACCORDANCE WITH A FORM PRESCRIBED BY THE BOARD STATING THE FACT THAT FINAL PAYMENT HAS BEEN MADE, THE TOTAL AMOUNT OF COMPENSATION PAID, THE NAME OF THE EMPLOYEE AND OF ANY OTHER PERSON TO WHOM COMPENSATION HAS BEEN PAID,

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1 THE DATE OF THE INJURY OR DEATH, AND THE DATE TO WHICH COMPENSATION
2 HAS BEEN PAID. IF THE EMPLOYER FAILS TO SO NOTIFY THE BOARD WITHIN
3 THIS TIME, THE BOARD SHALL ASSESS AGAINST THE EMPLOYER A CIVIL PENALTY
4 IN THE AMOUNT OF \$100.]

5 (h) The board may upon its own initiative at any time in a case
6 in which payments are being made with or without an award, [AND SHALL
7 IN A CASE] where right to compensation is controverted, or where pay-
8 ments of compensation have been increased, reduced, terminated, changed,
9 [STOPPED] or suspended, upon receipt of notice from a person entitled
10 to compensation, or from the employer, that the right to compensation
11 is controverted, or that payments of compensation have been increased,
12 reduced, terminated, changed, [STOPPED] or suspended, make the investi-
13 gations, cause the medical examinations to be made, or hold the hear-
14 ings, and take the further action which it considers will properly
15 protect the rights of all parties.

16 (i) When the board considers it advisable it may require an
17 employer to make a deposit with the Department of Revenue to secure the
18 prompt and convenient payment of the compensation, and payments from
19 the deposit upon an award shall be made upon order of the board.

20 (j) If an employer has made advance payments of compensation, he
21 is entitled to be reimbursed out of any unpaid installment or install-
22 ments of compensation due.

23 (k) An injured employee or in case of death his dependents or
24 personal representative, shall give receipts for payment of compensation
25 to the employer paying it and the employer shall produce them for
26 inspection by the board, whenever required.

27 (l) (repealed)

28 (m) An employer shall file on or before the date one year from
29 the date of injury or upon termination of the claim, whichever is

sooner, a report on a form prescribed by the board, showing the total amount of all compensation, medical and related benefits, legal fees, and penalties paid during the period since the injury including the name of the claimant, the date of injury, and the claim number. If the claim is not terminated within one year, subsequent reports shall be made yearly until the termination of the claim.

* Sec. 4. AS 23.30.265 is amended by adding a new paragraph to read:
(28) "reserve rate" means the unencumbered second injury fund balance on October 31 of each year as a percentage of disbursements from the second injury fund during the 12-month period ending on June 30 of the same calendar year.

* Sec. 5. The amount of a payment to the second injury fund and the conditions under which a payment is required of an employer or insurance carrier must be in accordance with the version of AS 23.30.040(b) in effect on the date that the injury to the employee occurred.

* Sec. 6. Notwithstanding the provisions of AS 23.30.040(b) as reenacted in sec. 2 of this Act, the contribution rate for the second injury fund is six percent from July 1, 1981, until December 31, 1982.

* Sec. 7. The division of workers' compensation in the Department of Labor shall undertake a comprehensive study of vocational rehabilitation of injured workers to include the following topics: (1) the organizational planning for a central agency to supervise and control the sequence, timeliness, duration and quality of rehabilitative care; (2) the coordination of programs for the distribution of services with other involved agencies; (3) the determination of the relationship of the obligations of employers and employees in the rehabilitative process as well as the accountability for the performance of rehabilitation facilities; (4) the development of methods to minimize the adversary environment and create an atmosphere conducive to successful reemployment; (5) the development of reemployment programs for

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1 disabled workers; (6) the integration of workers' compensation with other
2 programs for the disabled; and (7) a review of incentives and disincentives
3 for employees, employers, and insurers involved in the rehabilitative process.
4 The division of workers' compensation shall report its recommendations for
5 legislation or administrative action by the 30th day of the Second Session
6 of the Twelfth Legislature.

7 * Sec. 8. This Act takes effect on July 1, 1981.
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