



LAWS OF ALASKA

1983

Source

SCS CSHB 311(L&C)

Chapter No.

70

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TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.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 15, 1983
Actual Effective Date: January 1, 1984

AN ACT

Relating to Workers' Compensation; and providing for
an effective date.

* Section 1. AS 23.30.155(c) is amended to read:

(c) Upon making the first payment, and upon an increase, reduction, termination, suspension, resumption or a change in rate or type of compensation paid, the employer shall notify the board within 14 days, on a form prescribed by the board, that payment of compensation has begun or has been increased, reduced, terminated, resumed, changed, or suspended, as the case may be. If the employer fails to notify the board within 14 days, the board shall assess against the employer a civil penalty of \$100 plus \$10 [\$25] for each day in excess of 14 days that the employer fails to give notice. Total penalties under this section may not exceed \$1,000 [\$2,500] for each failure to file a required report.

* Sec. 2. AS 23.30.175(a) is amended to read:

(a) The weekly rate of compensation for disability or death for a recipient residing in Alaska may not exceed the percentage of the Alaska average weekly wage in effect on the date of injury as determined by the table contained in this subsection and initially may not be less than \$110 [\$65] a week. However, if the board determines that the employee's spendable [AVERAGE] weekly wages are less than \$110 [\$65] a week as computed under AS 23.30.220, it shall issue an order decreasing the weekly rate of compensation to a rate equal to the

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1 employee's spendable [AVERAGE] weekly wages, and payments made earlier
2 in excess of the decreased rate shall be deducted from the unpaid
3 compensation in the manner the board determines. In any case, the
4 employer shall pay timely compensation.

5	On	The Rate Shall be
6	July 1, 1975	80 percent of the Alaska average weekly wage
7	January 1, 1976	100 percent of the Alaska average weekly wage
8	January 1, 1977	133.3 percent of the Alaska average weekly wage
9	January 1, 1979	166.6 percent of the Alaska average weekly wage
10	January 1, 1981	200 percent of the Alaska average weekly wage

11 * Sec. 3. AS 23.30.175(c)(3) is amended to read:

12 (3) If the spendable [AVERAGE] weekly wage of the recipient
13 and the resulting compensation rate is determined under AS 23.30.-
14 220(a)(1) [AS 23.30.220(2)], the calculation required by this subsection
15 applies to only those wages earned in Alaska.

16 * Sec. 4. AS 23.30.175(c)(4) is amended to read:

17 (4) Application of this subsection may not result in a
18 reduction of the weekly compensation rate to less than \$110 [\$65] a
19 week except as provided in (a) of this section.

20 * Sec. 5. AS 23.30.180 is amended to read:

21 Sec. 23.30.180. PERMANENT TOTAL DISABILITY. In case of total
22 disability adjudged to be permanent 80 [66 2/3] percent of the in-
23 jured employee's spendable [AVERAGE] weekly wages shall be paid to the
24 employee during the continuance of the total disability. Loss of both
25 hands, or both arms, or both feet, or both legs, or both eyes, or of
26 any two of them, in the absence of conclusive proof to the contrary,
27 constitutes permanent total disability. In all other cases permanent
28 total disability is determined in accordance with the facts.

29 * Sec. 6. AS 23.30.185 is amended to read:

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

6 * Sec. 7. AS 23.30.190(a) is amended to read:

7 (a) In case of disability partial in character but permanent in
8 quality the compensation is 80 [66 2/3] percent of the injured em-
9 ployee's spendable [AVERAGE] weekly wages in addition to compensation
10 for temporary total disability or temporary partial disability paid in
11 accordance with AS 23.30.185 or 23.30.200, respectively, and shall be
12 paid to the employee as follows:

13 (1) arm lost, 280 weeks compensation, not to exceed \$59,000
14 [\$43,680];

15 (2) leg lost, 248 weeks compensation, not to exceed \$54,400
16 [\$40,320];

17 (3) hand lost, 212 weeks compensation, not to exceed
18 \$45,400 [\$33,600];

19 (4) foot lost, 173 weeks compensation, not to exceed
20 \$39,700 [\$28,700];

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

23 (6) thumb lost, 51 weeks compensation, not to exceed
24 \$14,000 [\$10,400];

25 (7) first finger lost, 28 weeks compensation, not to exceed
26 \$8,700 [\$6,440];

27 (8) great toe lost, 26 weeks compensation, not to exceed
28 \$7,200 [\$5,320];

29 (9) second finger lost, 18 weeks compensation, not to

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1 exceed \$5,700 [\$4,200]; third finger lost, 18 weeks compensation, not
2 to exceed \$4,700 [\$3,500];

3 (10) toe other than great toe lost, eight weeks compensa-
4 tion, not to exceed \$3,000 [\$2,240];

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

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

10 (13) compensation for loss of more than one phalange of a
11 digit shall be the same as for loss of the entire digit; compensation
12 for loss of the first phalange is one-half of the compensation for
13 loss of the entire digit;

14 (14) amputation between the elbow and the wrist is consid-
15 ered equivalent to the loss of an arm, and amputation between the knee
16 and ankle is considered equivalent to the loss of a leg;

17 (15) compensation for loss of binocular vision or for 80
18 percent or more of the vision of an eye is the same as for loss of the
19 eye;

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

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

26 (18) compensation for permanent partial loss or loss of use
27 of a member may be for proportionate loss or loss of use of the mem-
28 ber;

29 (19) in addition to other allowable compensation, the board

1 shall award proper and equitable compensation up to \$10,000 for

2 (A) serious disfigurement of face, head and, when such
3 disfigurement is likely to handicap the employee in securing or
4 holding employment, for serious disfigurement of neck or limbs
5 normally exposed, or

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

9 (20) in all other cases in this class of disability the
10 compensation is 80 [66 2/3] percent of the difference between the
11 spendable [HIS AVERAGE] weekly wages of the employee and the [HIS]
12 wage-earning capacity of the employee after the injury in the same
13 employment or otherwise, payable during the continuance of the partial
14 disability, but subject to modification [RECONSIDERATION OF THE DEGREE
15 OF THE IMPAIRMENT] by the board on its own motion or upon application
16 of a party in interest; whenever the board determines that it is in
17 the interest of justice, the liability of the employer for compensa-
18 tion, or any part of it as determined by the board, may be discharged
19 by the payment of a lump sum;

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

27 * Sec. 8. AS 23.30.200 is amended to read:

28 Sec. 23.30.200. TEMPORARY PARTIAL DISABILITY. In case of tempo-
29 rary partial disability resulting in decrease of earning capacity the

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1 compensation shall be 80 [66 2/3] percent of the difference between
2 the injured employee's spendable [AVERAGE] weekly wages before the
3 injury and the [HIS] wage earning capacity of the employee after the
4 injury in the same or another employment, to be paid during the con-
5 tinuance of the disability, but not to be paid for more than five
6 years.

7 * Sec. 9. AS 23.30.210 is amended to read:

8 Sec. 23.30.210. DETERMINATION OF WAGE-EARNING CAPACITY. In a
9 case of partial disability under AS 23.30.190(20) or 23.30.200 the
10 wage-earning capacity of an injured employee is determined by the
11 [HIS] actual spendable weekly wage of the employee [EARNINGS] if the
12 actual spendable weekly wage [EARNINGS] fairly and reasonably repre-
13 sents the [REPRESENT HIS] wage-earning capacity of the employee. If
14 the employee has no actual spendable weekly wage [EARNINGS] or the
15 [HIS] actual spendable weekly wage does [EARNINGS DO] not fairly and
16 reasonably represent the [HIS] wage-earning capacity of the employee,
17 the board may, in the interest of justice, fix the wage-earning capac-
18 ity which is reasonable, having due regard to the nature of the [HIS]
19 injury, the degree of physical impairment, the [HIS] usual employment,
20 and any other factors or circumstances in the case which may affect
21 the [HIS] capacity of the employee to earn wages in a [HIS] disabled
22 condition, including the effect of disability as it may naturally
23 extend into the future.

24 * Sec. 10. AS 23.30.215(a) is amended to read:

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

28 (1) reasonable and necessary funeral expenses not exceeding
29 \$2,500 [\$1,000];

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

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

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

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

11 [(D) REPEALED;]

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

14 [(F) REPEALED;]

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

17 (3) if the widow or widower remarries, the widow or widower
18 [SHE OR HE] is entitled to be paid in one sum an amount equal to the
19 compensation to which the widow or widower would otherwise be entitled
20 in the two years commencing on the date of remarriage as full and
21 final settlement of all sums due the widow or widower;

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

28 * Sec. 11. AS 23.30.215(b) is amended to read:

29 (b) In computing death benefits, the spendable [AVERAGE] weekly

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wage of the deceased shall be computed under AS 23.30.220 and shall be paid in accordance with AS 23.30.155 and subject to the weekly maximum limitation in the aggregate as provided in AS 23.30.175, but the total weekly compensation may not be less than \$75 [\$45] for a widow or widower nor less than \$25 [\$15] weekly to a child or \$50 [\$30] for children.

* Sec. 12. AS 23.30.220 is repealed and reenacted to read:

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

(1) The gross weekly earnings are computed by dividing by 100 the gross earnings of the employee in the two calendar years immediately preceding the injury.

(2) If the board determines that the gross weekly earnings at the time of the injury cannot be fairly calculated under (1) of this subsection, the board may determine the employee's gross weekly earnings for calculating compensation by considering the nature of the employee's work and work history.

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

(4) If the employee is injured while performing duties as a volunteer ambulance attendant, policeman, or fireman, the gross weekly earnings for calculating compensation shall be the minimum gross weekly earnings paid a full-time ambulance attendant, policeman, or

1 fireman employed in the political subdivision where the injury occur-
2 red, or, if the political subdivision has no full-time ambulance
3 attendants, policemen, or firemen, at a reasonable figure previously
4 set by the political subdivision to make this determination but in no
5 case may the gross weekly earnings for calculating compensation be
6 less than the minimum wage computed on the basis of 40 hours work per
7 week.

8 (b) The commissioner shall annually prepare formulas that shall
9 be used to calculate an employee's spendable weekly wage on the basis
10 of gross weekly earnings, number of dependents, marital status, and
11 payroll tax deductions.

12 * Sec. 13. AS 23.30.265(31) is amended to read:

13 (31) "suitable gainful employment" means employment that is
14 reasonably attainable in light of an individual's age, education,
15 previous occupation, and injury, and that offers an opportunity to
16 restore the individual as soon as practical to a remunerative occupa-
17 tion and as nearly as possible to the individual's gross [HIS AVERAGE]
18 weekly earnings [WAGE] as determined at the time of injury.

19 * Sec. 14. AS 23.30.265 is amended by adding new paragraphs to read:

20 (32) "gross earnings" means periodic payments, by an em-
21 ployer to an employee for employment before any authorized or lawfully
22 required deduction or withholding of money by the employer, including
23 compensation that is deferred at the option of the employee, and
24 excluding irregular bonuses, reimbursement of expenses, expense allow-
25 ances, and any benefit or payment to the employee that is not taxable
26 to the employee during the pay period; the value of room and board to
27 the employee may be considered in determining gross earnings; however,
28 the value of room and board that would raise an employee's gross
29 weekly earning above the Alaska average weekly wage at the time of

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1 injury may not be considered;

2 (33) "gross weekly earnings" means gross weekly earnings as
3 calculated under AS 23.30.220(a);

4 (34) "payroll taxes" means

5 (A) the amount that would be withheld under withhold-
6 ing tables in effect on the January 1 preceding the injury under
7 the Internal Revenue Code of 1954 as amended and regulations
8 issued under the code, as though the employee had claimed the
9 maximum number of dependents for actual dependency, blindness,
10 and old age to which the employee is entitled on the date on
11 which the employee is injured; and

12 (B) the amount that is or would be deducted or with-
13 held as of the January 1 preceding the injury under the Social
14 Security Act of 1935 as amended from the amount of earnings of
15 the employee at the time of the injury as if the earnings were
16 earned at the beginning of the calendar year in which the em-
17 ployee was injured and regardless of whether the amount was
18 actually withheld or the earnings were subject to withholding.

19 * Sec. 15. AS 23.30.265(20) is repealed.

20 * Sec. 16. This Act applies only to injuries sustained on or after
21 January 1, 1984.

22 * Sec. 17. This Act takes effect January 1, 1984.