

AN ACT to amend, revise, and codify chapter three (3) of title five (5) of the compiled code of Iowa, as amended by sections eight hundred twenty-three-a one (823-a1), eight hundred thirty-two (832), and eight hundred forty-three (843) of the supplement to said code, relating to employers' liability and workmen's compensation.

Be It Enacted by the General Assembly of the State of Iowa:

That chapter three (3) of title five (5) of the compiled Code of Iowa, as amended by sections eight hundred twenty-three-a one (823-a1), eight hundred thirty-two (832), and eight hundred forty-three (843) of the supplement to said Code are amended, revised, and codified to read as follows:

CHAPTER 3
WORKMEN'S COMPENSATION

Section 1. To whom not applicable. This chapter shall not apply to:

1. Any household or domestic servant.
2. Persons whose employment is of a casual nature.
- 2-a. Persons engaged in agriculture, in so far as injuries shall be incurred by employees while engaged in agricultural pursuits or any operations immediately connected therewith, whether on or off the premises of the employer.
3. As between a municipal corporation, city, or town, and any person or persons receiving any benefits under, or who may be entitled to benefits from, any "firemen's pension fund" or "policemen's pension fund" of any municipal corporation, city, or town, except as otherwise provided by law.

Sec. 2. Compulsory when. Where the state, county, municipal corporation, school district, or city under any form of government is the employer, the provisions of this chapter for the payment of compensation and amount thereof for an injury sustained by an employee of such employer shall be exclusive, compulsory, and obligatory upon both employer and employee, except as otherwise provided in the preceding section.

Sec. 3. Employers presumed to secure any pay compensation to injured employees. Except as provided by this chapter, it shall be conclusively presumed that every employer has elected to provide, secure, and pay compensation according to the provisions of this chapter for any and all personal injuries sustained by an employee arising out of and in the course of the employment, and in such cases, the employer shall be relieved from other liability for recovery of damages or other compensation for such personal injury.

Sec. 4. Provisions may be rejected. The presumption as stated in the preceding section shall continue and be in force until notice in writing of an election to the contrary shall have been given to the employees by posting the same in some conspicuous place where the business is carried on, and also by filing notice with the industrial commissioner with return thereon by affidavit showing the date and place notice was posted. Any employer beginning business and giving notice at once of his rejection of this chapter shall not be considered as under such provisions, but such employer shall not be relieved of the payment of compensation until thirty (30) days after the posting and filing of such notice with the industrial commissioner.

Sec. 5. Employers' notice to reject. An employer's notice of election to reject the provisions of this chapter shall be substantially in the following form:

You are hereby notified that the undersigned hereby elects to reject the terms, conditions, and provisions of chapter three (3), title five (5) of the Code for the payment of compensation as provided thereby, and elects to rely upon the common law as modified by section seven (7) and eight (8) of said chapter for the right to recover for personal injury which I may receive, if any, arising out of and in the course of my employment while in line of duty for my employer above named.

Dated this.....day of, 19.....

Signed

State of Iowa,)
) SS.
.....County.)

The undersigned on oath says that the above written notice was on theday of, 19....., served on the within named employer of the undersigned by delivering to a true copy thereof.

.....
(Name of person serving)

Subscribed and sworn (or affirmed) to before me by the said.....

..... thisday of, 19.....

.....
(Notary Public.)

Sec. 10. Affidavit of employee as to rejection. When an employee or one who is an applicant for employment rejects the provisions of this chapter, he shall, in addition to such notice, state in an affidavit to be filed with said notice who, if any person, requested, suggested, or demanded of such person to reject the provisions of this chapter. And if such request, suggestion, or demand has been made of such employee by any person, such employee shall state the name of the person who made the request, suggestion, or demand, and all of the circumstances relating thereto, the date and place made, and persons present, and if it be found that the employer of such employee, or an employer to whom an applicant for employment has applied, or any person a member of the firm, association, corporation, or agent or official of such employer, made a request, suggestion, or demand to such employee or applicant for employment to reject the provisions of this chapter, the rejection made under such circumstances shall be conclusively presumed to have been fraudulently procured, and such rejection shall be null and void and of no effect, unless such employee has a permanent disability at the time of making the affidavit, then and in that event such rejection shall be presumed to have been fraudulently procured.

Sec. 11. Interested person not to administer oath. No person interested in the business of such employer, financially or otherwise, shall be permitted to administer the oath to the affiant required in case an employee or applicant for employment elects to reject the provisions of this chapter. And the person administering such oath to such affiant shall carefully read the notice and affidavit to such person making such rejection, and shall explain that the purpose of the notice is to bar such person from recovering compensation in accordance with the schedule and terms of this chapter in the event that he sustains an injury in the course of such employment; all of which shall be shown

by certificate of the person administering the oath herein contemplated. The industrial commissioner shall refuse to file the notice and affidavit, unless the same fully and in detail, comply with the requirements hereof. And if such rejection, affidavit, or certificate is found insufficient for any cause, they shall be returned to the person who executed the instrument, with the reasons indorsed thereon by the industrial commissioner.

Sec. 12. Tenure of election. When the employer or employee has given notice in compliance with this chapter electing to reject the terms thereof, such election shall continue and be in force until such employer or employee shall thereafter elect to come under the provisions of this chapter as is provided in the next section.

Sec. 13. Waiver of election to reject. When an employer or employee rejects the provisions of this chapter, such party may at any time thereafter elect to waive the same by giving notice in writing in the same manner required of the party in electing to reject the provisions of this chapter, which shall become effective when filed with the industrial commissioner and posted at the place of business.

Sec. 14. Liability when employer and employee reject. When the employer and employee elect to reject the provisions of this chapter, the liability of the employer shall be the same as though the employee had not rejected the provisions hereof.

Sec. 15. Defenses not available when employer rejects. An employer who rejects the provisions of this chapter in the manner and form provided, shall not escape the liability for personal injury sustained by an employee of such employer when the injury sustained arises out of and in the course of the employment on the grounds that:

1. The employee assumed the risks inherent in or incidental to or arising out of his or her employment, or the risks arising out of the failure of the employer to provide and maintain a reasonably safe place to work, or the risks arising out of the failure of the employer to furnish reasonably safe tools or appliances, or the risks arising out of the failure of the employer to exercise reasonable care in selecting reasonably competent employees in the business, or on the ground that the employer exercised reasonable care in selecting reasonably competent employees in the business.

2. The injury was caused by the negligence of a co-employee.

3. The employee was negligent, unless such negligence was wilful and with intent to cause the injury, or the result of intoxication of the part of the injured party.

Sec. 16. Wilful injury, - intoxication. No compensation under this chapter shall be allowed for an injury caused:

1. By the employee's wilful intent to injure himself or to wilfully injure another.

2. When intoxication of the employee was the proximate cause of the injury.

Sec. 17. Implied agreement when terms not rejected. Where the employer and employee have not given notice of an election to reject the terms of this chapter, every contract of hire, express or implied, shall be construed as an implied agreement between them and a part of the contract on the part of the employer to provide, secure, and pay, on the part of the employee to accept compensation in the manner as by this chapter provided for all personal injuries sustained arising out of and in the course of the employment.

Sec. 18. Contract to relieve not operative. No contract, rule, regulation, or device whatsoever shall operate to relieve the employer, in whole or in part, from any liability created by this chapter except as herein provided.

Sec. 19. Negligence presumed - burden of proof. In actions by an employee against an employer for personal injury sustained, arising out of and in the course of the employment, when the employer has rejected the provisions of this chapter, the following provisions shall apply:

1. It shall be presumed:

(a) That the injury to the employee was the direct result and growing out of the negligence of the employer.

(b) That such negligence was the proximate cause of the injury.

2. In such cases the burden of proof shall rest upon the employer to rebut the presumption of negligence.

Sec. 20. Rights of employee exclusive - presumption. The rights and remedies provided in this chapter for an employee on account of injury shall be exclusive of all other rights and remedies of such employee, his personal or legal representatives, dependents or next of kin, at common law or otherwise, on account of such injury; and all employees affected by this chapter shall be conclusively presumed to have elected to take compensation in accordance with the terms, conditions and provisions hereof until notice in writing shall have been served upon his employer, and also on the industrial commissioner, with return thereon by affidavit showing the date upon which notice was served upon the employer.

Sec. 21. Subsequent election to reject - Security for compensation due. An employer having come under this chapter, who thereafter elects to reject the terms, conditions and provisions thereof, shall not be relieved from the payment of compensation to any employee who sustains an injury arising out of and in the course of the employment before the election to reject becomes effective; and in such cases the employer shall be required to secure the payment of any compensation due or that may become due to such employee, subject to the approval of the Iowa industrial commissioner.

Sec. 22. Liability of other than employer-Subrogation. When an employee receives an injury for which compensation is payable under this chapter, and which injury is caused under circumstances creating a legal liability against some person other than the employer to pay damages, the employee, or his dependent, or the trustee of such dependent, may take proceedings against his employer for compensation, and the employee or, in case of death, his legal representative may also maintain an action against such third party for damages. When an injured employee or his legal representative brings an action against such third party, a copy of the original notice shall be served upon the employer by the plaintiff, not less than ten days before the trial of the case, but a failure to give such notice shall not prejudice the rights of the employer, and the following rights and duties shall ensue.

1. If compensation is paid the employee or dependent or the trustee of such dependent under this chapter, the employer by whom the same was paid, or his insurer which paid it, shall be indemnified out of the recovery of damages to the extent of the payment so made, with legal interest, and shall have a lien on the claim for such recovery and the judgment thereon for the compensation for which he is liable. In order to continue and preserve the lien, the employer or insurer shall, within thirty (30) days after receiving notice of such suit from the employee, file, in the office of the clerk of the court where the action is brought, notice of the lien.

2. In case the employee fails to bring such action within ninety (90) days, or where a city or town or city under special charter is such third party, within thirty (30) days after written notice so to be given by the employer or his insurer, as the case may be, then the employer or his insurer shall be subrogated to the rights of the employee to maintain the action against such third party, and may recover damages for the injury to the same extent that the employee might. In case of recovery, the court shall enter judgment for distribution of the proceeds thereof as follows:

(a) A sum sufficient to repay the employer for the amount of compensation actually paid by him to that time.

(b) A sum sufficient to pay the employer the present worth computed on a six per cent (6%) basis of the future payments of compensation for which he is liable, but such sum thus found shall not be considered as a final adjudication of the future payments which the employee shall receive and the amount received by the employer, if any, in excess of that required to pay the compensation shall be paid to the employee.

(c) The balance, if any, shall be paid over to the employee.

3. Before a settlement shall become effective between an employee or an employer and such third party who is liable for the injury, it must be with the written consent of the employee, in case the settlement is between the employer-insurer and such third person; and the consent of the employer or insurer, in case the settlement is between the employee and such third party; or on refusal of consent, in either case, then upon the written approval of the industrial commissioner.

4. A written memorandum of any settlement, if made, shall be filed by the employee in the office of the industrial commissioner.

Sec. 23. Notice of injury - failure to give. Unless the employer or his representative shall have actual knowledge of the occurrence of an injury, or unless the employee or some one on his behalf or some of the dependents or someone on their behalf shall give notice thereof to the employer within fifteen (15) days after the occurrence of the injury, then no compensation shall be paid until and from the date such notice is given or knowledge obtained; but if such notice is given or knowledge obtained within thirty (30) days from the occurrence of the injury, no want, failure or inaccuracy of a notice shall be a bar to obtaining compensation, unless the employer shall show that he was prejudiced thereby, and then only to the extent of such prejudice; but if the employee or beneficiary shall show that his failure to give prior notice was due to mistake, inadvertence, ignorance of fact or law, or inability, or to the fraud, misrepresentation or deceit of another, or to any other reasonable cause or excuse, then compensation may be allowed, unless and then to the extent only that the employer shall show that he was prejudiced by failure to receive such notice; but unless knowledge is obtained or notice given within ninety days after the occurrence of the injury, no compensation shall be allowed.

Sec. 23-a. Limitation of actions. No original proceedings for compensation shall be maintained in any case unless such proceedings shall be commenced within two (2) years from the date of the injury causing such death or disability for which compensation is claimed.

Sec. 24. Form of notice of injury. No particular form of notice shall be required, but may be substantially as follows:
To.....

You are hereby notified that on or about the..... day of
....., 19....., personal injury was sustained by
....., while in your employ at.....
..... (Give name
.....
and place employed and point where located when injury occurred.)

Signed.....

No variation from this form of notice shall be material if the notice is sufficient to advise the employer that a certain employee, by name, received an injury in the course of his employment on or about a specific time, at or near a certain place

Sec. 25. Service of notice of injury. The notice may be served on any one upon whom an original notice may be served in civil cases. Service may be made by any person, who shall make return verified by affidavit upon a copy of the notice, showing the date and place of service and upon whom served; but no special form of the return of service of the notice shall be required. It shall be sufficient if the facts therefrom can be reasonably ascertained. The return of service may be amended at any time.

Sec. 26. Surgical and medical services - Amount. In addition to other compensation hereinafter provided for, at the time of the injury and thereafter during the disability, but not exceeding four (4) weeks of incapacity, the employer, if so requested by the employee, or anyone for him, or if so ordered by the court or industrial commissioner, shall furnish reasonable surgical, medical and hospital services, and supplies therefor, or any other appropriate treatment agreed to in writing by the employee and the employer and the insurer, not exceeding one hundred dollars (\$100.00); but, in exceptional cases, the employer shall furnish such additional medical, and hospital services and supplies for such period and in such amount as the industrial commissioner shall order, but in no event to exceed one hundred dollars (\$100.00) for such additional services and supplies.

Sec. 27. Burial expense in case of death from injury. When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee, not to exceed one hundred fifty dollars (\$150.00), which shall be in addition to other compensation or any other benefit provided for in this chapter.

Sec. 28. Liability of employer in case of death and no dependents. When the injury causes death of an employee who leaves no dependents, then the employer shall pay the reasonable expense of the employee's sickness, if any, and the expense of burial, as provided in the last two preceding sections, and this shall be the only compensation; provided that if, from the date of the injury until the date of the death, any weekly compensation shall have become due and unpaid up to the time of the death, the same shall be payable to the estate of the deceased employee.

Sec. 29. Basis of compensation schedule. In all cases where an employee receives a personal injury for which compensation other than for medical, surgical, and hospital services and burial expenses, is payable, such compensation shall be upon the basis of sixty per cent (60%) per week of the average weekly earnings but not to exceed fifteen dollars (\$15.00) nor less than six dollars (\$6.00) per week, except if at the time of his injury his earnings are less than six dollars (\$6.00) per week, then he shall receive in weekly payments a sum equal to the full amount of his weekly earnings.

Sec. 29-a1. Maturity date and interest. Compensation payments shall be made each week beginning on the twenty-second (22) day after the injury, and each week thereafter during the period for which compensation is payable, and if not paid when due, there shall be added to such weekly compensation payments, interest at six per cent (6%) from the date of maturity.

Sec. 30. Compensation in death cases - dependents.

1. When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of his injury, the weekly compensation for a period of three hundred (300) weeks from the date of his injury.

2. When the injury causes the death of a minor employee whose earnings were received by the parent, the compensation to be paid such parent shall be two-thirds ($2/3$) the weekly compensation for an adult with like earnings.

3. If the employee leaves dependents only partially dependent upon his earnings for support at the time of the injury, the weekly compensation to be paid as aforesaid, shall be equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of the injury.

4. When weekly compensation has been paid to an injured employee prior to his death, the compensation to dependents shall run from the date to which compensation was fully paid to such employee, but shall not continue for more than three hundred (300) weeks from the date of the injury.

5. Where an employee is entitled to compensation under this chapter for an injury received, and death ensues from any cause not resulting from the injury for which he was entitled to the compensation, payments of the unpaid balance for such injury shall cease and all liability therefor shall terminate.

6. Except as otherwise provided by treaty, whenever, under the provisions of this act, compensation is payable to a dependent who is an alien not residing in the United States at the time of the injury, the employer shall pay fifty per cent (50%) of the compensation herein otherwise provided to such dependent, and the other fifty per cent (50%) shall be paid into the state treasury. But if the nonresident alien dependent is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefits of such law in as favorable degree as herein extended to the nonresident alien, then said compensation which would otherwise be payable to such dependent shall be paid into the state treasury.

Sec. 31. When compensation begins - periodical increase. Except as to injuries resulting in permanent partial disability, compensation shall begin on the fifteenth day of disability after the injury.

If the period of incapacity extends beyond the thirty-fifth day following the date of injury, then the compensation for the fifth week shall be increased by adding thereto an amount equal to two-thirds ($2/3$) of one (1) week of compensation; if the period of incapacity extends beyond the forty-second day following the date of injury, then the compensation for the sixth week shall be increased by adding thereto an amount equal to two-thirds ($2/3$) of one (1) week of compensation; if the period of incapacity extends beyond the forty-ninth day following the date of injury, then the compensation for the seventh week shall be increased by adding thereto an amount equal to two-thirds ($2/3$) of one (1) week of compensation; if the period of incapacity extends beyond the forty-ninth day following the date of injury, then the compensation thereafter shall be only the weekly compensation.

Sec. 32. Compensation for temporary disability - limit. For injury producing temporary disability, and beginning on the fifteenth day thereof, the employer shall pay the weekly compensation during the period of such disability, but not exceeding three hundred (300) weeks, including the periodical increase in cases to which the preceding section applies.

Sec. 33. Compensation for permanent total disability. For an injury causing permanent total disability, the employer shall pay the weekly compensation during the period of his disability, not, however, beyond four hundred weeks weeks.

Sec. 34. Schedule of permanent partial disabilities. Compensation for permanent partial disability shall begin at the date of injury and shall be based upon the extent of such disability, and for all cases of permanent partial disability included in the following schedule compensation shall be paid as follows:

1. For the loss of a thumb, weekly compensation during forty (40) weeks.
2. For the loss of a first finger, commonly called the index finger, weekly compensation during thirty (30) weeks.
3. For the loss of a second finger, weekly compensation during twenty-five (25) weeks.
4. For the loss of a third finger, weekly compensation during twenty (20) weeks.
5. For the loss of a fourth finger, commonly called the little finger, weekly compensation during fifteen (15) weeks.
6. The loss of the first or distal phalange of the thumb or of any finger shall equal the loss of one-half ($1/2$) of such thumb or finger and compensation shall be one-half ($1/2$) of the time for the loss of such thumb or finger.
7. The loss of more than one (1) phalange shall equal the loss of the entire finger or thumb.
8. For the loss of a great toe, weekly compensation during twenty-five (25) weeks.
9. For the loss of one (1) of the toes other than the great toe, weekly compensation during fifteen (15) weeks.
10. The loss of the first phalange of any toe, shall equal the loss of one-half ($1/2$) of such toe and the compensation shall be one-half ($1/2$) of the time provided for the loss of such toe.
11. The loss of more than one (1) phalange shall equal the loss of the entire toe.
12. For the loss of a hand, weekly compensation during one hundred fifty (150) weeks.
13. The loss of two-thirds ($2/3$) of that part of an arm between the shoulder joint and the elbow joint shall equal the loss of an arm and the compensation therefor shall be weekly compensation during two hundred twenty-five (225) weeks.
14. For the loss of a foot, weekly compensation during one hundred twenty-five (125) weeks.
15. The loss of two-thirds ($2/3$) of that part of a leg between the hip joint and the knee joint shall equal the loss of a leg, and the compensation therefor shall be weekly compensation during two hundred (200) weeks.
16. For the loss of an eye, weekly compensation during one hundred (100) weeks.
17. For the loss of an eye, the other eye having been lost prior to the injury, weekly compensation during two hundred (200) weeks.
18. For the loss of hearing in one (1) ear, weekly compensation during fifty (50) weeks, and for the loss of hearing in both ears, weekly compensation during one hundred fifty (150) weeks.
19. The loss of both arms, or both hands, or both feet or both legs, or both eyes or of any two (2) thereof, caused by a single accident, shall equal permanent total disability, to be compensated as such.
20. In all other cases of permanent partial disability, the compensation shall bear such relation to the periods of compensation stated in the above schedule as the disability bears to those produced by the injuries named in the schedule.

Sec. 35. Basis of computation.

1. Compensation shall be computed on the basis of the annual earnings which the injured person received as salary, wages, or earnings in the employment of the same employer during the year next preceding the injury.

2. Employment by the same employer shall mean in the grade in which the employee was employed at the time of the accident, uninterrupted by absence from work due to illness of any other unavoidable cause.

3. The annual earnings, if not otherwise determinable, shall be three hundred (300) times the average daily earnings in such computation.

4. If the injured person has not been engaged in the employment for a full year immediately preceding the accident, the compensation shall be computed according to the annual earnings which persons of the same class in the same or in neighboring employments of the same kind have earned during such period. And if this basis of computation is impossible, or should appear to be unreasonable, three hundred (300) times the amount which the injured person earned on an average of those days when he was working during the year next preceding the accident, shall be the basis for the computation.

5. In case of injured employees who earn either no wages or less than three hundred (300) times the usual daily wage or earnings of the adult day laborer in the same line of industry of that locality, the yearly wage shall be reckoned as three hundred (300) times the average daily local wages of the average wage earner in that particular kind or class of work; or if information of that kind is not obtainable, then the class most kindred or similar in the same general employment in the same neighborhood.

6. For employees in a business or enterprise which customarily shuts down and ceases operation during a season of each year, the number of working days which it is the custom of such business or enterprise to operate each year instead of three hundred (300) shall be the basis for computing the annual earnings; but the minimum number of days which shall be used as a basis for the year's work shall not be less than two hundred (200).

7. Earnings, for the purpose of this section, shall be based on the earnings for the number of hours commonly regarded as a day's work for that employment and shall exclude overtime earnings. The earnings shall not include any sum which the employer has been accustomed to pay the employee to cover any special expense entailed on him by the nature of the employment.

8. In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, was disabled and drawing compensation under the provisions of this chapter, the compensation for each subsequent injury shall be apportioned according to the proportion of disability caused by the respective injuries which he shall have suffered.

Sec. 36. Contributions from employees - no reduction of employers liability. The compensation herein provided shall be the measure of liability which the employer has assumed for injuries or death that may occur to employees in his employment subject to the provisions of this chapter, and it shall not be in anywise reduced by contribution from employees or donations from any source.

Sec. 37. Examination of injured employees - suspension of compensation. After an injury, the employee, if so requested by his employer, shall submit himself for examination at some reasonable time and place within the state and as often as may be reasonably requested, to a physician or physicians authorized to practice under the laws of this state, without cost to the employee; but if the employee requests, he shall, at his own cost, be entitled to have a physician or physicians of his own selection present to participate in such examination. The refusal of the employee to submit to such examination shall deprive him of the right to any compensation for the period of such refusal. When a right of compensation is thus suspended, no compensation shall be payable for the period of suspension.

Sec. 38. Employer to furnish statement of earnings. The employer shall furnish, upon request of an injured employee or dependent or any legal representative acting for such person, a statement of the earnings, wages, or salary and other matters relating thereto during the year or part of the year that such employee was in the employment of such employer for the year preceding the injury; but not more than one (1) report shall be required on account of any one (1) injury.

Sec. 39. Penalty for refusing or neglecting to furnish statement. On failure of the employer to furnish such statement of earnings for thirty (30) days after receiving written request therefor from an injured employee, his agent, attorney, dependent, or legal representative, such employer shall pay a penalty of twenty-five dollars (\$25.00) for each offense to be collected by the commissioner in any court having jurisdiction and paid into the state treasury.

Sec. 40. Persons conclusively presumed wholly dependent. The following shall be conclusively presumed to be wholly dependent upon the deceased employee:

1. The surviving spouse, with the following exceptions:
 - (a) When it is shown that at the time of the injury the surviving spouse had wilfully deserted deceased without fault of the deceased, then such survivor shall not be considered as dependent in any degree.
 - (b) When the surviving spouse was not married to the deceased at the time of the injury.
 - (c) When the deceased leaves no dependent children and the surviving spouse remarries, then all compensation shall cease on the date of such marriage.
2. A child or children under sixteen (16) years of age, and over said age if physically or mentally incapacitated from earning, whether actually dependent for support or not upon the parent at the time of his or her death. An adopted child or children or stepchild or stepchildren shall be regarded the same as issue of the body.
3. A parent of a minor who is receiving the earnings of the employee at the time when the injury occurred. Stepparents shall be regarded as parents.

Sec. 41. Payment to spouse - death before payment. If the deceased employee leaves a surviving spouse, the full compensation shall be paid to her or him, subject to the exceptions in the preceding section.

If the spouse dies before full payment, the balance shall be paid to the person or persons wholly dependent on deceased, if any, share and share alike. If there are none wholly dependent, then such balance shall be paid to partial dependent, if any, in proportion to their dependency.

Sec. 42. Payments to actual dependents. In all cases, questions of dependency in whole or in part shall be determined in accordance with the facts as of the date of the injury; and in such other cases if there is more than (1) person wholly dependent, the death benefit shall be equally divided among them. If there is no one wholly dependent and more than one (1) person partially dependent, the death benefit shall be divided among them in the proportion each dependency bears to their aggregate dependency.

Sec. 43. Commutation -- conditions for granting. Future payments of compensation may be commuted to a present worth lump sum payment on the following conditions:

1. When the period during which compensation is payable can be definitely determined.

2. When the written approval of such commutation by the industrial commissioner has been filed in the proceedings to commute.

3. When it shall be shown to the satisfaction of the court or a judge thereof that such commutation will be for the best interest of the person or persons entitled to the compensation, or that periodical payments as compared with a lump sum payment will entail undue expense, hardship, or inconvenience upon the employer liable therefor.

Sec. 44. Proceedings for commutation. A written petition for commutation may be made to the district court in and for the county in which the injury occurred or to any judge thereof, and shall have indorsed thereon the approval of the industrial commissioner.

Notice of the filing or presentation of such petition shall be served upon the opposite party or parties for the time and in the manner required for original notices. The court or judge in term time or vacation shall hear and determine the matter as a proceeding in equity and render such judgment and decree, granting such commutation in whole or in part or dismissing the petition, as equity will warrant on the facts presented.

In any case parties in interest may agree in writing to waive presenting the petition for commutation to the district court and in such case, if the application is approved by the industrial commissioner, governed by the law applicable to the district court, he may enter an order for commutation which shall have the same force and effect as if made by the district court with the right upon the part of either party to file a certified copy thereof in the district court as provided for an award.

Sec. 45. Basis of commutation - Payment - Discharge. When the commutation is ordered, the court shall fix the lump sum to be paid at an amount which will equal the total sum of the probable future payments capitalized at their present value and upon the basis of interest, calculated at five per cent (5%) per annum. Upon the payment of such amount the employer shall be discharged from all further liability on account of such injury or death, and be entitled to a duly executed release, upon filing which the liability of such employer under any agreement, award, finding, or judgment shall be discharged of record.

Sec. 45-a1. Partial commutation. When partial commutation is ordered, the court shall fix the lump sum to be paid at an amount which will equal the future payments for the period commuted, capitalized at their present value upon the basis of interest calculated at five per cent (5%) per annum, with provisions for the payment of weekly compensation not included in such commutation, subject to any provisions of the law applicable to such unpaid weekly payments; all remaining payments, if any, to be paid at the same time as though such commutation had not been made.

Sec. 46. Trustees for minors and those mentally incompetent. When an injured minor employee, or a minor dependent, or one mentally incompetent, is entitled to compensation under this chapter, payment shall be made to a trustee appointed by the judge of the district court for the county in which the injury occurred, and the money coming into the hands of said trustee shall be expended for the use and benefit of the person entitled thereto under the direction and orders of the judge during term time or in vacation. If the judge making the appointment deems it advisable, a trustee may be appointed to serve for more than one (1) county in the district and the expenses shall be paid ratably by each county according to the amount of work performed in each county. The trustee shall qualify and give bond in such amount as the judge may direct, which may be increased or diminished from time to time as the court may deem best.

Sec. 47. Annual report of trustee - Compensation. The trustees shall make annual reports to the court of all money or property received and expended for each person; and for services rendered as trustee, shall be paid such compensation by the county as the court may direct by written order directed to the auditor of the county, who shall issue a warrant therefor upon the treasurer of the county in which the appointment is made.

Sec. 48. Alien dependents in foreign country - Representative. In case a deceased employe for whose injury or death compensation is payable leaves surviving him an alien dependent or dependents residing outside the United States, the consul general, consul, vice consul or consular agent of the nation of which the said dependent or dependents are citizens, or the duly appointed representative of such consular official resident in the state of Iowa, shall be regarded as the exclusive representative of such dependent or dependents, and said consular officials or their representatives shall have the same rights and powers in all matters of compensation which said non-resident aliens would have if resident in the state of Iowa.

Sec. 49. Consular officer or agent may be appointed trustee. Such consular officer or his duly appointed representative resident in the state of Iowa shall file in the district court of the county in which the accident occurred resulting in the death of said employe evidence of his authority, and thereupon the court or a judge thereof shall appoint him a trustee for such nonresident alien dependents, and thereafter he shall be subject to the jurisdiction of said court until his final report of distribution and payment has been filed and approved. Such consular official or his said representative shall qualify as such trustee by giving bond with approved sureties in a sum to be fixed by said court or judge, and the amount of said bond may be increased or decreased from time to time as said court or judge may direct.

Sec. 52. Notice to consular officer of death of employes with alien dependents. If such consular officer, or his duly appointed representative, shall file with the industrial commissioner evidence of his authority, the industrial commissioner shall notify such consular officer or his representative of the death of all employes leaving alien dependent, or dependents, residing in the county of said consular officer so far as same shall come to his knowledge.

Sec. 54. Insurance against compensation prohibited - Penalty. Any contract of employment, relief benefit, or insurance, or other device whereby the employe is required to pay any premium or premiums for insurance against the compensation provided for in this chapter, shall be null and void; and any employer withholding from the wages of any employe any amount for the purpose of paying any such premium shall be guilty of a misdemeanor and punishable by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each offense.

Sec. 55. Provisions cannot be waived. No employe or dependent to whom this chapter applies, shall have the power to waive any of the provisions of this chapter in regard to the amount of compensation which may be payable to such employe or dependent hereunder.

Sec. 56. Contract respecting claim for injury deemed fraudulent. Any contract or agreement made by any employer or his agent or attorney with any employe or any other dependent under the provisions of this chapter within twelve (12) days after the injury shall be presumed to be fraudulent.

Sec. 57. Employees in interstate and intrastate commerce. So far as permitted, or not forbidden, by any act of congress, employees engaged in interstate or foreign commerce and their employees working only in this state shall be bound by the provisions of this chapter in like manner and with the same force and effect in every respect as by this chapter provided for other employers and employees.

Sec. 58. Payment to employees of state. All valid claims now due or which may hereafter become due employees of the state under the provisions of this chapter shall be paid out of any funds in the state treasury not otherwise appropriated.

Sec. 59. Auditor to issue warrants. The auditor of state is hereby authorized and directed to draw warrants on the state treasury for any and all amounts due state employees under the provisions of this chapter upon there being filed in his office, either a memorandum of settlement approved by the industrial commissioner of an award made by a board of arbitration, for which no review is pending, or an order of the industrial commissioner from which no appeal has been taken, or a judgment of any court of the state accompanied by a certificate of the industrial commissioner setting forth the amount of compensation due and the statutory provisions under which the same should be paid.

Sec. 60. Board of audit not to approve. Claims for compensation under the last two (2) preceding sections shall not require approval by the board of audit.

Sec. 61. Terms defined. In this and chapter four (4) and five(5), unless the context otherwise requires, the following definitions of terms shall prevail:

1. "Employer" includes and applies to any person, firm, association, or corporation, state, county, municipal corporation, city under special charter and under commission form of government, school district, and the legal representatives of a deceased employer.

2. "Workman" or "employee" means a person who has entered into the employment of, or works under contract of service, express or implied, or apprenticeship, for an employer, except as hereinafter specified.

2-al. The following persons shall not be deemed "workmen" or "employees":

(a) A person whose employment is purely casual and not for the purpose of the employer's trade or business.

(b) A person engaged in clerical work only, but clerical work shall not include any one who may be subject to the hazards of the business.

(c) An independent contractor.

(d) A person holding an official position, or standing in a representative capacity of the employer, or an official elected or appointed by the state, county, school district, municipal corporation, city under special charter or commission form of government.

3. The term "workman" or "employee" shall include the singular and plural of both sexes. Any reference to a workman or employee who has been injured shall, when such workman or employee is dead, include his dependents as herein defined or his legal representatives; and where the workman or employee is a minor or incompetent, it shall include his guardian, next friend or trustee.

4. The words "injury" or "personal injury" shall be construed as follows:

(a) They shall include death resulting from personal injury.

(b) They shall not include injury caused by the wilful act of a third person directed against an employee for reasons personal to such employee, or because of his employment.

(c) They shall not include a disease unless it shall result from the injury.

5. The words "personal injury arising out of and in the course of the employment" shall include injuries to employees whose services are being performed on, in or about the premises which are occupied, used or controlled by the employer, and also injuries to those who are engaged elsewhere in places where their employer's business requires their presence and subjects them to dangers incident to the business.

6. The word "court" wherever used in this and the two succeeding chapters, unless the context shows otherwise, shall be taken to mean the district court.

Sec. 61-a1. Peace officers - injury in line of duty. Any policeman (except those pensioned under the policeman's pension fund created by law), any sheriff, marshal, constable and any and all of their deputies, and any and all other such legally appointed or elected law-enforcing officers, who shall, while in line of duty or from causes arising out of or sustained while in the course of their official employment, meaning while in the act of making or attempting to make an arrest or giving pursuit, or while performing such official duties where there is peril or hazard peculiar to the work of their office, be killed outright, or become temporarily or permanently physically disabled, or if said disability result in death, shall be entitled to compensation, the same to be paid out of the general funds of the state for all such injuries or disability.

Where death occurs, compensation shall be paid to the dependents of the officer, as in other compensation cases. Such compensation shall be the minimum allowed in compensation cases. The industrial commissioner shall have jurisdiction as in other cases.

CHAPTER 4 INDUSTRIAL COMMISSIONER

Sec. 62. Industrial commissioner - term - vacancy. The governor shall, prior to the adjournment of the general assembly in nineteen hundred twenty-five (1925), and each six (6) years thereafter, appoint, with the approval of the senate, an industrial commissioner whose term of office shall be six (6) years from July first of the year of appointment. He shall maintain his office at the seat of government. An appointment to fill a vacancy may be made when the senate is not in session, but shall be acted upon at the next session thereof.

Sec. 63. Appointment of deputy. The commissioner shall, in writing, appoint a deputy for whose acts he shall be responsible, and who shall serve during the pleasure of the commissioner.

Sec. 64. Duties of the deputy. In the absence or disability of the industrial commissioner, or when acting under the directions of the commissioner, the deputy shall have all of the powers and perform all of the duties of the industrial commissioner pertaining to his office.

Sec. 65. Appropriation for expenses. There is hereby appropriated out of any money not otherwise appropriated the sum of five thousand dollars (\$5,000.00), or so much thereof as may be required, annually, to defray the expenses of said office.

Sec. 66. Political activity and contributions prohibited - Penalty. It shall be unlawful for the commissioner, or any appointee of the commissioner while in office, to espouse the election or appointment of any candidate to any political office, contribute to the campaign fund of any political party, or to the campaign fund of any person who is a candidate for election or appointment to any political office, and any person violating the provisions of this section shall be guilty of a misdemeanor and shall be fined one hundred dollars

Sec. 67. Candidates for commissioner - Political promises prohibited - Penalty. Any person who is a candidate for appointment as commissioner who makes any promise to another, express or implied, in consideration of any assistance or influence given or recommendation made that the candidate will, if appointed as a commissioner, appoint such person or one whom he may recommend to any office within the power of the commissioner to appoint, shall be fined one hundred dollars (\$100.00).

Sec. 68. Recommendations of candidate in writing - Record. All recommendations to the governor of any person asking the appointment of another as commissioner shall be reduced to writing, signed by the person presenting the same, which shall be filed by the governor in his office and open at all reasonable times for public inspection, and all recommendations made by any person to the commissioner for the appointment of another within the power of the commissioner to appoint, shall be reduced to writing, signed by the person presenting the same, and filed by the commissioner and open for public inspection at all reasonable times. If any person recommending the appointment of another within the contemplation of this section refuses to reduce the same to writing, it shall be the duty of the person to whom the recommendation is made, to make a memorandum thereof, stating the name of the person recommended and the name of the person who made the same, which shall be filed in the office of the governor or the commissioner as the case may be.

Sec. 69. Interest in affected business prohibited. It shall be unlawful for the commissioner to be financially interested in any business enterprise coming under or affected by this chapter during his term of office, and if he violates this statute, it shall be sufficient grounds for his removal from office, and in such case the governor shall at once declare the office vacant and appoint another to fill the vacancy.

Sec. 70. Duties - Rules and regulations - Reports. It shall be the duty of the commissioner:

1. To establish and enforce all necessary rules and regulations not in conflict with the provisions of this and the preceding and the next succeeding chapters for carrying out the purposes thereof.
2. To prepare and distribute the necessary blanks relating to computation, adjustment and settlement of compensation arising thereunder.
3. To preside as chairman of boards of arbitration for the settlement of controversies.
4. To keep records of all proceedings and decisions of such boards, issue subpoenas for witnesses, administer oaths, examine books and records of parties subject to such provisions.
5. In general to do all things not inconsistent with law in carrying out said provisions according to their true intent and purposes

Sec. 71. Biennial reports. The commissioner shall, at the time provided by law, make a biennial report to the governor setting forth in appropriate form the business and expenses of the office for the two (2) preceding years, the number of arbitrations and the results thereof, and such other matters pertaining to his office as may be of public interest, together with any recommendations for change or amendment of the laws as found in this and the preceding and next succeeding chapters, and such recommendations, if any, shall be transmitted by the governor to the first general assembly in session thereafter.

Sec. 72. Pay rolls and records open to inspection of commissioner. All books, records, and pay rolls of the employers, showing or reflecting in any way upon the amount of wage expenditure of such employers, shall always be open for inspection by the industrial commissioner or any of his representatives presenting a certificate of authority from said commissioner for the purpose of ascertaining the correctness of the wage expenditure; the number of men employed and such other information as may be necessary for the uses and purposes of the commissioner in his administration of the law. Information so obtained shall be used for no other purpose than to advise the commissioner or insurance association with reference to such matters. A refusal on the part of the employer to submit his books, records, or pay rolls for the inspection of the commissioner or his authorized representatives presenting written authority from the commissioner, shall subject the employer to a penalty of one hundred dollars (\$100.00) for each such offense, to be collected by civil action in the name of the state, and paid into the state treasury.

Sec. 73. Reports of injuries - records - inspection. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, sustained by his employees in the course of their employment and resulting in incapacity for a longer period than one (1) day. Within forty-eight (48) hours, not counting Sundays and legal holidays, after the employer has knowledge of the occurrence of an accident resulting in personal injury causing incapacity for a longer period than one (1) day, a report shall be made in writing by the employer to the industrial commissioner on blanks to be procured from the commissioner for that purpose.

Sec. 74. Subsequent reports. Upon the termination of the disability of the injured employee, or if such disability extends beyond a period of sixty (60) days, at the expiration of such period, the employer shall make a supplemental report on blanks to be procured from the commissioner for that purpose. The said reports shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex, and occupation of the injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by the commissioner. Any employer who fails to make the report required by this and the preceding section shall be liable to a penalty of fifty dollars (\$50.00) for each offense, to be recovered by the commissioner. The commissioner shall be represented by the county attorney in the county in which such proceeding is brought.

Sec. 75. Compensation agreements - approval. If the employer and the employee reach an agreement in regard to the compensation, a memorandum thereof shall be filed with the industrial commissioner by the employer or employee, and unless the commissioner shall, within twenty (20) days, notify the employer and the employee of his disapproval of the agreement by registered letter sent to their addresses as given on the memorandum filed, the agreement shall stand approved and be enforceable for all purposes, except as otherwise provided in this and chapters three (3) and five (5). In case the injured employee is a minor, either he or his trustee may execute the memorandum of agreement and give a valid and binding release for the compensation paid on his account. Such agreement shall be approved by said commissioner only when the terms conform to the provisions of this and the preceding chapter.

Sec. 76. Board of arbitration. If the employer and injured employee or his representatives or dependents fail to reach an agreement in regard to compensation, either party may file a petition and copy thereof with the industrial commissioner, stating therein his or her claims in general terms and asking that a board of arbitration be formed. Thereupon the commissioner shall in writing notify the parties to name their respective members of such board. Such board shall consist of three (3) persons, one (1) of whom shall be the industrial commissioner or his deputy, who shall act as chairman. The other two (2) shall be named, respectively, by the two (2) parties.

Sec. 77. Commissioner to appoint. If either party fails to appoint an arbitrator by the time fixed for hearing by the commissioner, such defaulting party shall be deemed to have waived the right to appoint an arbitrator and hearing shall proceed without such appointment. Parties may, in writing filed with the commissioner, waive the appointment of arbitrators and in such case the hearing shall proceed before the commissioner or his deputy with the same force and effect as if tried before a board with respective representatives.

Sec. 78. Oath of arbitrators. The arbitrators appointed by the parties shall be sworn by the chairman to take the following oath:

"I,, do solemnly swear (or affirm) that I will faithfully perform my duties as arbitrator and will not be influenced in my decision by any feeling of friendship or partiality toward either party.

Signed

Sec. 79. Powers of board - Hearings - Decision. The board of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the board shall be in the county where the injury occurred, but by written stipulation of the parties filed in the case it may be held at any other place in the state. If the injury occurred outside this state the hearing of the board shall be held in the county seat of this state which is nearest to the place where the injury occurred unless the interested parties and the industrial commissioner mutually agree by written stipulation that the same may be at some other place.

Sec. 80. Liberal rules of evidence. While sitting as a board of arbitration, or when conducting a hearing on review, or in making any investigation or inquiry, neither the board of arbitration nor the commissioner shall be bound by common law or statutory rules of evidence or by technical or formal rules of procedure; but they shall hold such arbitrations, or conduct such hearings and make such investigations and inquiries in such manner as is best suited to ascertain and conserve the substantial rights of all parties thereto. Process and procedure under this chapter shall be as summary as reasonably may be.

Sec. 81. Appointment of reporter - Compensation. If either, or both, parties to any proceeding hereunder shall furnish compensation for a shorthand reporter in such reasonable amount as the commissioner shall fix, the commissioner shall appoint a reporter to report the proceedings of any hearing before the commissioner or a board of arbitration. The amount so paid shall be taxed as other costs. Any such reporter shall faithfully and accurately report any proceeding for which he or she shall be employed.

Sec. 83. Transcript of evidence - Compensation. The official shorthand reporter appointed for any hearing before the commissioner or a board of arbitration on written request by either party to the controversy, or by the commissioner, shall make a transcript of the evidence or so much thereof as shall be requested, to be paid for at the rate of not to exceed ten cents (10c) for each one hundred (100) words. The transcript shall be paid for by the party requesting it, and if used as the record of the evidence on a review or appeal, the expense shall be taxed as part of the costs against the losing party, or apportioned as the case may be.

Sec. 84. Depositions. The deposition of any witness may be taken and used as evidence in any hearing pending before a board of arbitration or the industrial commissioner in compensation proceedings.

Such deposition shall be taken in the same manner as provided for the taking of depositions for use in the district court, and when so taken shall be admissible in evidence in such hearings in the same manner, subject to the same rules governing the admission of evidence as in the district court.

Application for a commission to take depositions in such cases shall be filed in the office of the clerk of the district court of the county wherein the injury occurred.

Sec. 84-a1. Witnesses compelled to testify. The district court is hereby empowered to enforce by proper proceedings the provisions of this chapter relating to the attendance and testimony of witnesses and the examination of books and records.

Sec. 85. Findings of arbitration board filed. The decision of the board of arbitration, together with a statement or certificate of evidence submitted before it, its findings of fact, rulings of law, and any other matters pertinent to questions arising before it, shall be filed with the industrial commissioner.

Sec. 86. Petition for review - Proceedings. Any party aggrieved by the decision or findings of a board of arbitration may, within ten (10) days after such decision is filed with the industrial commissioner, file in the office of the commissioner a petition for review, and the commissioner shall thereupon fix a time for the hearing on such petition and notify the parties.

At such hearing, the commissioner shall hear the parties, consider all evidence taken before the board of arbitration if it has been transcribed, and may hear any additional evidence, and he may affirm, modify or reverse the decision of the board, or may remand it to the board for further findings of facts. Additional evidence to that presented and admitted in arbitration proceedings shall not be introduced by either party unless such party gives the opposite party, or his attorney, five (5) days' notice thereof in writing, stating the particular phase of the controverted claim to which such additional evidence will apply.

Sec. 87. Decision and findings of fact by commissioner. The decision of the industrial commissioner in any case on review before him shall be in writing, filed in his office, and shall set forth his findings of fact and conclusions of law.

Sec. 88. Appeal - Time - Manner. Any party aggrieved by any decision or order of the industrial commissioner in a proceeding on review, may within thirty (30) days from the date such decision or order is filed, appeal therefrom to the district court of the county in which the injury occurred, by filing in the office of the commissioner a written notice of appeal setting forth in general terms the decision appealed from and the grounds of the appeal. The commissioner shall forthwith give notice to the other parties in interest.

Sec. 89. Transcript. Within thirty (30) days after a notice of appeal is filed with the commissioner, he shall make, certify and file in the office of the clerk of the court to which the appeal is taken, a full and complete transcript of all documents in the case, including any depositions, and a transcript or certificate of the evidence, if reported, together with the notice of appeal.

Sec. 90. Trial term - Precedence. The first term after the appeal is taken shall be the trial term, and if the appeal is taken during a term, it shall be triable at that term at any time after ten (10) days from the date of filing the transcript by the commissioner and ten (10) days' notice in writing by either party upon the other. Such appeal shall have precedence on the docket and for trial over all other civil business except appeals of the same kind which shall be tried in the order in which they are filed, except as otherwise agreed in writing by all parties in interest and filed.

Sec. 91. Record - Finding of fact conclusive. The transcript as certified and filed by the industrial commissioner shall be the record on which the appeal shall be heard, and no additional evidence shall be heard. In the absence of fraud the findings of fact made by the industrial commissioner within his powers shall be conclusive.

Sec. 92. Power of court on appeal. Any order or decision of the industrial commissioner may be modified, reversed, or set aside on one (1) or more of the following grounds and on no other:

1. If the commissioner acted without or in excess of his powers.
2. If the order or decree was procured by fraud.
3. If the facts found by the commissioner do not support the order or decree.
4. If there is not sufficient competent evidence in the record to warrant the making of the order or decision.

Sec. 93. Judgment or order remanding. When the district court, on appeal, reverses or sets aside an order or decision of the industrial commissioner, it may remand the case to the commissioner for further proceedings in harmony with the holding of the court, or it may enter the proper judgment, as the case may be. Such judgment or decree shall have the same force and effect as if action had been originally brought and tried in said court.

Sec. 94. Costs on appeal. The clerk shall charge no fee for any service rendered in compensation cases except the filing fee and transcript fees when the transcript of a judgment is required. The taxation of costs in such appeals shall be in the discretion of the court.

Sec. 95. Appeal to supreme court - Time for submission. An appeal may be taken to the supreme court from any final order, judgment, or decree of the district court, but such appeal shall be docketed, placed upon the term calendar and submitted in the same time and manner as criminal cases in said court.

Sec. 96. Review of payments fixed by agreement or award. Any award for payments or agreement for settlement made under this chapter where the amount has not been commuted, may be reviewed by the industrial commissioner at the request of the employer or of the employee at any time, and if on such review the commissioner finds the condition of the employee warrants such action, he may end, diminish, or increase the compensation so awarded or agreed upon.

Sec. 97. Notice - Hearing. When any interested party desires a review of payments or settlements as provided in the preceding section, he shall file a petition for review with the industrial commissioner setting forth the grounds upon which the right of review is claimed. The commissioner shall give the parties in interest notice of the time fixed for such hearing, which shall not be less than five (5) days from the date of filing such petition.

Sec. 98. Notice by commissioner.- How given. Any notice to be given by the commissioner or court provided for in this chapter shall be in writing, but service thereof shall be sufficient if registered and deposited in the mail, addressed to the last known address of the parties, unless otherwise provided in this chapter.

Sec. 99. Place of hearing all reviews by commissioner. All petitions for review of the decision and findings of a board of arbitration, and all petitions for review of payments or settlements shall be heard at the seat of government, unless the interested parties and the industrial commissioner agree by written stipulation that any such petition may be heard elsewhere.

Sec. 101. Examination by physician - Fee - Evidence. The industrial commissioner may appoint a duly qualified, impartial physician to examine the injured employee and make report. The fee for this service shall be five dollars (\$5.00), to be paid by the industrial commissioner, together with traveling expenses, but the commissioner may allow additional reasonable amounts in extraordinary cases. Any physician so examining any injured employee shall not be prohibited from testifying before the industrial commissioner, board of arbitration, or any other person, commission, or court, as to the results of his examination or the condition of the injured employee.

Sec. 102. Fees - Approval - Lien. All fees or claims for legal, medical, hospital and burial services rendered under this act shall be subject to the approval of the industrial commissioner, and no lien for such service shall be enforceable without the approval of the amount thereof by the industrial commissioner. For services rendered in the district court and supreme court, the attorney's fee shall be subject to the approval of a judge of the district court.

Sec. 103. Compensation of arbitrators - Costs. The arbitrators except the commissioner shall each receive five dollars (\$5.00) as a fee for services, but the industrial commissioner may allow additional reasonable amounts in extraordinary cases. The fees shall be paid by the employer, who may deduct an amount equal to one-half (1/2) the sum from any compensation found due the employee. All other costs incurred in the hearing before a board of arbitration or the commissioner shall be taxed in the discretion of such board or the commissioner as the case may be.

Sec. 104. Witness fees. Witness fees and mileage on hearings before an arbitration board or the industrial commissioner shall be the same as in the district court.

Sec. 105. Judgment on award by district court. Any party in interest may present a certified copy of an order or decision of the commissioner, or an award of a board of arbitration from which no petition or review has been filed within the time allowed therefor, or a memorandum of agreement approved by the commissioner, and all papers in connection therewith, to the district court of the county in which the injury occurred, whereupon said court shall render a decree or judgment in accordance therewith and cause the clerk to notify the parties. Such decree or judgment, in the absence of an appeal from the decision of the industrial commissioner, shall have the same effect and in all proceedings in relation thereto shall thereafter be the same as though rendered in a suit duly heard and determined by said court.

Sec. 105-a1. Judgment - Modification of. Upon the presentation to the court of a certified copy of a decision of the industrial commissioner, ending, diminishing or increasing the compensation under the provisions of this chapter, the court shall revoke or modify the decree or judgment to conform to such decision.

CHAPTER 5

COMPENSATION LIABILITY INSURANCE

Sec. 107. Insurance of liability required. Every employer subject to the provisions of this and the two (2) preceding chapters, unless relieved therefrom as hereinafter provided, shall insure his liability thereunder in some corporation, association, or organization approved by the commissioner of insurance. Every such employer shall exhibit, on demand of the insurance commissioner, evidence of his compliance with this section; and if such employer refuses, or neglects to comply with this section, he shall be liable in case of injury to any workman in his employ under the common law as modified by statute, and in the same manner and to the same extent as though such employer had legally exercised his right to reject the provisions relating to compensation for injury to employees.

Sec. 108. Notice of failure to insure. Any employer who fails to insure his liability as required herein shall keep posted a sign of sufficient size and so placed as to be easily seen by his employees in the immediate vicinity where working, which sign shall read as follows:

"NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure his liability to pay compensation as required by law, and that because of such failure he is liable to his employees in damages for personal injuries sustained by his employees in the same manner and to the same extent as though he had legally exercised his right to reject the provisions relating to compensation.

(Signed),....."

Any employer coming under the provisions of this and the two (2) preceding chapters who fails to comply with this section or to post and keep the above notice in the manner and form herein required, shall be guilty of a misdemeanor.

Sec. 109. Maximum commission or compensation for reinsurance. No insurer of any obligation under this chapter shall either by himself or through another, either directly or indirectly, charge or accept as a commission or compensation for placing or renewing any insurance under this chapter, more than fifteen per cent (15%) of the premium charged.

Sec. 110. Mutual companies - Conditions. For the purpose of complying with this chapter groups of employers by themselves or in an association with any or all of their workmen, may form insurance associations as hereafter provided, subject to such reasonable conditions and restrictions as may be fixed by the insurance commissioner, and membership in such mutual insurance organization as approved, together with evidence of the payment of premiums due, shall be evidence of compliance with this chapter.

Sec. 111. Benefit insurance - Approval. Subject to the approval of the industrial commissioner, any employer or group of employers may enter into or continue an agreement with his or their workmen to provide a scheme of compensation, benefit, or insurance in lieu of compensation and insurance; but such scheme shall in no instance provide less than the benefits provided and secured, nor vary the period of compensation provided for disability or for death, or the provisions of law with respect to periodic payments, or the percentage that such payments shall bear to weekly wages, except that the sums required may be increased; and the approval of the industrial commissioner shall be granted, if the scheme provides for contribution by workmen, only when it confers benefits, in addition to those required by law, commensurate with such contributions.

Sec. 112. Certificate of approval. When such scheme or plan is approved by the industrial commissioner, he shall issue certificate to that effect, whereupon it shall be legal for such employer, or group of employers to contract with any or all of his or their workmen to substitute such scheme or plan for the provisions relating to compensation and insurance during a period of time fixed by said department.

Sec. 113. Termination - Appeal to district court. Such scheme or plan may be terminated by the industrial commissioner on reasonable notice to the interested parties if it shall appear that the same is not fairly administrated, or if its operation shall disclose latent defects threatening its solvency, or if for any substantial reason it fails to accomplish the purpose of this chapter; but from any such order of said industrial commissioner the parties affected, whether employer or workmen, may, upon the giving of proper bond to protect the interests involved, appeal to the district court in the same time and manner as appeals from actions of the industrial commissioner, which appeal shall be tried as an equitable action.

Sec. 114. Insolvency clause prohibited. No policy of insurance issued under this chapter shall contain any provision relieving the insurer from payment if the insured becomes insolvent or discharged in bankruptcy during the period that the policy is in operation, or the compensation, or any part of it, is unpaid.

Sec. 115. Lien of employees Direct payment by insurer. Every policy shall provide that the workman shall have a first lien upon any amount becoming due on account of such policy to the insured from the insurer, and that in case of the legal incapacity, inability, or disability of the insured to receive the amount due and pay it over to the insured workman, or his dependents, said insurer shall pay the same directly to such workman, his agent, or to a trustee for him or his dependents, to the extent of any obligation of the insured to said workman or his dependents.

Sec. 116. Policy requirements. Every policy issued by an insurance corporation, association, or organization to insure the payment of compensation shall contain a clause providing that between any employer and the insurer, notice to and knowledge of the occurrence of injury or death on the part of the insured shall be notice and knowledge on the part of the insurer; and jurisdiction of the insured shall be jurisdiction of the insurer, and the insurer shall be bound by every agreement, adjudication, award, or judgment rendered against the insured.

Sec. 117. Relief from insurance requirement - proof of solvency. When an employer coming under this chapter furnishes satisfactory proofs to the insurance commissioner of such employer's solvency and financial ability to pay the compensation and benefits as by law provided and to make such payments to the parties when entitled thereto, or when such employer deposits with such commissioner security satisfactory to him and the industrial commissioner as guaranty for the payment of such compensation, such employer shall be relieved of the provisions of this chapter requiring insurance; but such employer shall, from time to time, furnish such additional proof of solvency and financial ability to pay as may be required by such insurance commissioner or industrial commissioner.

Sec. 118. Revocation of release from insurance requirement. The insurance commissioner with the concurrence of the industrial commissioner may, at any time, upon reasonable notice to such employer and upon hearing, revoke for cause any order theretofore made relieving any employer from carrying insurance as provided by this chapter.

Sec. 119. Employer failing to insure - election of employee. When any employer to whom this and the two (2) preceding chapters apply has not rejected the terms and provisions thereof by filing and posting notice as provided in chapter three (3) of this title, but has failed to insure his or its liability in one of the ways provided in this chapter, unless relieved from carrying such insurance as provided in the second preceding section, then any employee of such employer, who has not rejected the provisions of said chapters, in case of personal injury in the course of and arising out of such employment, shall have the right to elect to collect compensation as provided in chapters three (3) and four (4) of this title or collect damages at common law as modified by said chapter three (3); but this section and the two succeeding sections shall not apply to an employer who, at the time of the injury, was employing not to exceed five (5) employees whose employment was not of a casual nature.

Sec. 120. Manner of making election. Any employee entitled to make an election as provided in the preceding section shall do so in writing signed by himself indicating the election, made and filed with the industrial commissioner within sixty (60) days after receiving an injury for which such employee is entitled to either compensation or damages. If such injured employee or one having the right to elect for him, fails to make an election within sixty (60) days, then and in that event it shall be conclusively presumed that the employee elected to accept compensation according to the schedule of compensation as provided in chapter three (3).

Sec. 121. Notice to employer of election. Within five (5) days after a written election has been filed in the office of the industrial commissioner as provided in the preceding section, the commissioner shall give notice thereof in writing to the employer by registered mail as provided for giving other notice by the commissioner.

Approved April 3, 1924.

CHAPTER 29
HEALTH AND SAFETY APPLIANCES
S. F. 43

AN ACT to amend, revise, and codify sections eight hundred fifty-nine (859), eight hundred sixty-one (861), eight hundred sixty-two (862), and eight hundred eighty-three (883) of the compiled code of Iowa, and section eight hundred sixty (860) of the supplement to said code, relating to health and safety appliances and industrial accidents.

Be It Enacted by the General Assembly of the State of Iowa:

That sections eight hundred fifty-nine (859), eight hundred sixty-one (861), eight hundred sixty-two (862), and eight hundred eighty-three (883) of the compiled Code of Iowa, and section eight hundred sixty (860) of the supplement to said Code are amended, revised, and codified to read as follows:

CHAPTER 4

HEALTH AND SAFETY APPLIANCES

Section 1. Enforcement. It shall be the duty of the commissioner of labor of the state, and the mayor and chief of police of every city or town, to enforce the provisions of this chapter.

Sec. 2. Water-closets-separate for each sex. Every manufacturing or mercantile establishment, workshop, or hotel in which five (5) or more persons are employed, shall be provided with a sufficient number of water-closets, earth closets, or privies for the reasonable use of the persons employed therein, which shall be properly screened and ventilated and kept at all times in a clean condition and free from all obscene writing or marking; and such water-closets or privies shall be supplied in the proportion of at least one (1) to every twenty (20) employees; and if women or girls are employed in such establishment, the water-closets, earth closets, or privies used by them shall have separate approaches and be separate and apart from those used by the men or boys.