SENATE FILE 495

By COMMITTEE ON HUMAN AND INDUSTRIAL RELATIONS

FILED APR 17 1973

Passed Senate, Date 4-25-73 (1000) Passed House, Date 5-18-73 (1445)

Vote: Ayes 42 Nays 2 Vote: Ayes 67 Nays 23

Approved 6-13-73

Motion to reconsider failed 5/21 (1458) w d. 5/24

A BILL FOR

1 An Act relating to workmen's compensation.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Section 1. Section eighty-five point one (85.1), subsection one (1), Code 1973, is amended to read as follows:

1. Any ~~household or domestic servant~~ person engaged in any type of service in or about a private dwelling except that after July 1, 1975, this chapter shall apply to such persons who earn two hundred dollars or more from such employer for whom employed at the time of the injury in any calendar quarter, provided said person is not a regular member of the household.

Sec. 2. Section eighty-five point one (85.1), subsection two (2), Code 1973, is amended to read as follows:

2. Persons whose employment is purely casual and not for the purpose of the employer's trade or business, except that after July 1, 1975, this chapter shall apply to such employees who earn two hundred dollars or more from such employer for whom employed at the time of the injury in any calendar quarter.

Sec. 3. Section eighty-five point one (85.1), subsection three (3), Code 1973, is amended to read as follows:

3. Persons engaged in agriculture, insofar 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, except that commencing January 1, 1974, this chapter shall apply to such persons if at the time of injury such person is employed by an employer:

a. Whose total cash payments to one or more such persons amounted to two thousand five hundred dollars or more during the preceding calendar year, or

b. Who employs at least one such person regularly. A person shall not be deemed regularly employed unless it is the intention of the employer and employee that the term of employment is for an indefinite period or for a definite period of one year or more and for forty hours or more per week.

CPA-34947 1/71

Sec. 4. Section eighty-five point twenty-six (85.26), Code 1973, is amended to read as follows:

85.26 LIMITATION OF ACTIONS. No original proceedings for compensation shall be maintained in any case unless such proceedings shall be commenced within two years from the date of the injury causing such death or disability for which ~~compensation is~~ benefits are claimed.

No claim or proceedings for benefits shall be maintained by any person other than the injured employee, his dependent or his legal representative, if entitled to benefits.

Sec. 5. Section eighty-five point twenty-seven (85.27), unnumbered paragraph one (1), Code 1973, is amended to read as follows:

The employer, with notice or knowledge of injury, shall furnish reasonable surgical, medical, osteopathic, chiropractic, podiatrial, physical rehabilitation, nursing, ambulance, and hospital services and supplies therefor. The employer shall also furnish reasonable and necessary crutches, artificial members and appliances but shall not be required to furnish more than one permanent prosthetic device. ~~The total amount which may be allowed for medical, surgical, and hospital services and supplies, services of special nurses, one set of prosthetic devices, and ambulance charges, shall be unlimited. However, if the aggregate thereof exceeds seventy-five hundred dollars, application for the allowance of such additional amounts shall be made to the commissioner by the claimant, and the commissioner may, upon reasonable proof being furnished of real necessity therefor, allow and order payment for additional surgical, medical, osteopathic, chiropractic, podiatrial, nursing and hospital services and supplies, and no statutory period of limitation shall be applicable thereto.~~

Sec. 6. Section eighty-five point thirty-one (85.31), subsection one (1), Code 1973, is amended to read as follows:

1. When death results from the injury, the employer shall

CPA-34946 1/71

pay the dependents who were wholly dependent on the earnings of the employee for support at the time of his injury, during their lifetime, compensation upon the basis of ~~sixty-six and two-thirds~~ eighty percent per week of the employee's average weekly spendable earnings, ~~payable in three hundred equal weekly installments~~ commencing from the date of his ~~injury, but not to~~ death as follows:

a. To the widow or widower for life or until remarriage, provided that upon remarriage two years' benefits shall be paid to the widow or widower in a lump sum, if there are no children entitled to benefits.

b. To any child of the deceased until the child shall reach the age of eighteen, provided that a child beyond eighteen years of age shall receive benefits to the age of twenty-five if actually dependent, and the fact that a child is under twenty-five years of age and is enrolled as a full-time student in any accredited educational institution shall be a prima facie showing of actual dependency.

c. To any child who was physically or mentally incapacitated from earning at the time of the injury causing death for the duration of the incapacity from earning.

d. To all other dependents as defined in section eighty-five point forty-four (85.44) of the Code for the duration of the incapacity from earning.

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to ~~forty-six~~ sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury; provided, that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred per-

CPA-44947 1/71

cent, respectively, of the state average weekly wage as determined above; provided further, that such weekly compensation shall not be less than eighteen dollars per week, except if at the time of his injury his earnings are less than eighteen dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 7. Section eighty-five point thirty-three (85.33), Code 1973, is amended to read as follows:

85.33 TEMPORARY DISABILITY. The employer shall pay to the employee for injury producing temporary disability and beginning upon the eighth day thereof, weekly compensation benefit payments for ~~a period not exceeding three hundred weeks~~ the period of his disability, including the periodical increase in cases to which section 85.32 applies.

Sec. 8. Section eighty-five point thirty-four (85.34), subsection one (1), Code 1973, is amended to read as follows:

1. HEALING PERIOD. If an employee has suffered a personal injury causing permanent partial disability for which compensation is payable as provided in subsection 2 of this section, the employer shall pay to the employee compensation for a healing period, as provided in section 85.37, beginning on the date of the injury~~, which shall be not more than thirty percent of the period during which weekly compensation is required to be paid for the permanent partial disability under the provisions of this section. In the unusual case where it appears, upon competent medical evidence, that the actual healing period will substantially exceed the maximum established above, the commissioner may, upon application of the claimant, extend the healing period for such time as is necessary but not beyond a total of sixty percent for both the original healing period and such extended period. However, in no event shall such payments for a healing period be made for a period longer than the actual time the employee is in~~

CPA-34946 1/71

~~capacitated from work because of such injury~~ and until he has returned to work or competent medical evidence indicates that recuperation from said injury has been accomplished, whichever comes first.

Sec. 9. Section eighty-five point thirty-four (85.34), subsection two (2), unnumbered paragraph one (1), Code 1973, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 hereof. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. Such compensation shall be based upon the extent of such disability and upon the basis of ~~sixty-six and two-thirds~~ eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to ~~forty-six~~ sixty-one and one-third percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury, provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal ninety-two percent, one hundred and twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the state average weekly wage as determined above; provided that no employee shall receive as compensation less than eighteen dollars per week, except if at the time of his injury his earnings are less than eighteen dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings; and for all cases of permanent partial disability such compensation shall be paid as follows:

Sec. 10. Section eighty-five point thirty-four (85.34), subsection three (3), unnumbered paragraph one (1), Code 1973,

CPA-34947 1/71

is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of ~~sixty-six-and-two-thirds~~ eighty percent per week of the employee's average weekly spendable earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to ~~forty-six~~ sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3 and in effect at the time of the injury provided that ~~no~~ as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the state average weekly wage as determined above. No employee shall receive as compensation less than eighteen dollars per week, except if at the time of his injury his earnings are less than eighteen dollars per week, then the weekly compensation shall be a sum equal to the full amount of his weekly earnings; said weekly compensation shall be payable during the period of his disability ~~for-a-period of-time-not-to-exceed-five-hundred-weeks~~.

Sec. 11. Section eighty-five point thirty-four (85.34), subsection three (3), unnumbered paragraph two (2), Code 1973, is amended to read as follows:

~~In-no-case-shall-the-weekly-compensation-payments-exceed the-amount-determined-by-dividing-the-total-number-of-weeks into-the-maximum-total-compensation-stated-herein.~~ Such compensation shall be in addition to the benefits provided in sections 85.27 and 85.28. No compensation shall be payable under this subsection for any injury for which compensation is payable under subsection 2 of this section. In the event compensation has been paid to any person under any provision of this chapter or chapter 85A for the same injury producing

CPA-34946 1/71

1 a total permanent disability, any such amounts so paid shall
2 be deducted from the total amount of compensation payable
3 for such permanent total disability.
4 Sec. 12. Section eighty-five point thirty-six (85.36),
5 Code 1973, is amended by striking the section and inserting
6 in lieu thereof the following:
7 85.36 BASIS OF COMPENSATION. The basis of compensation
8 shall be the weekly earnings of the injured employee at the
9 time of the injury. Weekly earnings means gross salary,
10 wages, or earnings of an employee to which such employee would
11 have been entitled had he worked the customary hours for the
12 full pay period in which he was injured, as regularly required
13 by his employer for the work or employment for which he was
14 employed, computed or determined as follows and then rounded
15 to the nearest dollar:
16 1. In the case of an employee who is paid on a weekly
17 pay period basis, the weekly gross earnings.
18 2. In the case of an employee who is paid on a biweekly
19 pay period basis, one-half of the biweekly gross earnings.
20 3. In the case of an employee who is paid on a semimonthly
21 pay period basis, the semimonthly gross earnings multiplied
22 by twenty-four and subsequently divided by fifty-two.
23 4. In the case of an employee who is paid on a monthly
24 pay period basis, the monthly gross earnings multiplied by
25 twelve and subsequently divided by fifty-two.
26 5. In the case of an employee who is paid on a yearly
27 pay period basis, the weekly earnings shall be the yearly
28 earnings divided by fifty-two.
29 6. In the case of an employee who is paid on a daily,
30 or hourly basis, or by the output of the employee, the weekly
31 earnings shall be computed by dividing by thirteen the earn-
32 ings, not including overtime or premium pay, of said employee
33 earned in the employ of the employer in the last completed
34 period of thirteen consecutive calendar weeks immediately
35 preceding the injury.

CPA-34947 1/71

7. In the case of an employee who has been in the employ of the employer less than thirteen calendar weeks immediately preceding the injury, his weekly earnings shall be computed under subsection six (6) of this section, taking the earnings, not including overtime or premium pay, for such purpose to be the amount he would have earned had he been so employed by the employer the full thirteen calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation.

8. If at the time of the injury the hourly earnings have not been fixed or cannot be ascertained, the earnings for the purpose of calculating compensation shall be taken to be the usual earnings for similar services where such services are rendered by paid employees.

9. In occupations which are exclusively seasonal and therefore cannot be carried on throughout the year, the weekly earnings shall be taken to be one-fiftieth of the total earnings which the employee has earned from all occupations during the twelve calendar months immediately preceding the injury.

10. In the case of an employee who earns either no wages or less than the usual weekly earnings of the regular full-time adult laborer in the line of industry in that locality, the earnings shall be taken to be the average weekly wages of the average wage earner in that particular kind or class of work. If information of that kind is not obtainable, then the class most kindred or similar in the same general employment in the same neighborhood shall be used.

a. In computing the compensation to be allowed a volunteer fireman, his earnings as a fireman shall be disregarded and he shall be paid the maximum compensation allowable under the workmen's compensation law.

b. If the employee was an apprentice or trainee when injured, and it is established under normal conditions his earnings should be expected to increase during the period of dis-

CPA-34946 1/71

ability, that fact may be considered in computing his weekly earnings.

c. 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.

d. This subsection shall not apply to compensable injuries arising under the second injury compensation Act.

Sec. 13. Section eighty-five point thirty-seven (85.37), Code 1973, is amended to read as follows:

85.37 COMPENSATION SCHEDULE. In all cases where an employee receives a personal injury causing temporary disability, or causing a permanent partial disability for which compensation is payable during a healing period, compensation for such temporary disability or for such healing period shall be upon the basis provided herein. The weekly benefit amount payable to any employee for any one week shall be upon the basis of eighty percent of the employee's weekly spendable earnings, but shall not exceed an amount, rounded to the nearest dollar, equal to ~~fifty~~ sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the Iowa employment security commission under the provisions of section 96.3~~,-subsection-4,~~ and in effect at the time of the injury provided that as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it shall equal one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent, and two hundred percent, respectively, of the state average weekly wage as determined above. Total weekly compensation for any employee shall not exceed ~~sixty-six-and-two-thirds~~ eighty percent per week of the employee's average weekly spendable earnings; provided

CPA-34947 1/71

further, that such compensation shall not be less than eighteen dollars per week, except if at the time of his injury his earnings are less than eighteen dollars per week, then he shall receive in weekly payments a sum equal to the full amount of his weekly earnings.

Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

~~The words "child" or "children" as used herein shall mean and be defined as in subsection 2 of section 85.42.~~

Sec. 14. Section eighty-five point forty-two (85.42), subsection one (1), paragraph c, Code 1973, is amended by striking the paragraph.

Sec. 15. Section eighty-five point forty-two (85.42), subsection two (2), Code 1973, is amended to read as follows:

2. A child or children under ~~sixteen~~ eighteen 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 shall be regarded the same as issue of the body. A child or children, as used herein, shall also include any child or children conceived but not born at the time of the employee's injury, and any compensation payable on account of any such child or children shall be paid from the date of their birth. A stepchild or stepchildren shall be regarded the same as issue of the body only when the stepparent has actually provided the principal support for such child or children.

Sec. 16. Section eighty-five point forty-three (85.43), Code 1973, is amended to read as follows:

85.43 PAYMENT TO SPOUSE. If the deceased employee leaves a surviving spouse, qualified under the provisions of section eighty-five point forty-two (85.42) of the Code, the full compensation shall be paid to her or him~~, subject to the exceptions in section 85.42~~ as provided in section eighty-five point thirty-one (85.31) of the Code; provided that where

CPA-34946 1/71

a deceased employee leave a surviving spouse and a dependent child or children ~~under-sixteen-years-of-age,-or-over-said age-if-physically-or-mentally-incapacitated-from-earning,~~ the industrial commissioner may make an order of record for an equitable apportionment of the compensation payments.

If the spouse dies ~~before-full-payment~~, the ~~balance~~ benefits 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~~ benefits shall be paid to partial dependents, if any, in proportion to their dependency for the periods provided in section eighty-five point thirty-one (85.31) of the Code.

If the deceased leaves dependent child or children who was or were such at the time of the injury, and the surviving spouse remarries, then and in such case, the ~~unpaid-portion of-the-compensation~~ payments shall be paid to the proper compensation trustee for the use and benefit of such dependent child or children for the period provided in section eighty-five point thirty-one (85.31) of the Code.

Sec. 17. Section eighty-five point forty-four (85.44), Code 1973, is amended to read as follows:

85.44 PAYMENT TO ACTUAL DEPENDENTS. In all other cases, ~~questions-of-dependency-in-whole-or-in-part~~ a dependent shall be one actually dependent or mentally or physically incapacitated from earning. Such status shall be determined in accordance with the facts as of the date of the injury~~,-and in-such-other-cases~~. In such cases if there is more than one person ~~wholly-dependent~~, the ~~death~~ compensation benefit shall be equally divided among them. If there is no one wholly dependent and more than one person partially dependent, the ~~death~~ compensation benefit shall be divided among them in the proportion each dependency bears to their aggregate dependency.

Sec. 18. Section eighty-five point forty-five (85.45), Code 1973, is amended by adding the following new subsection:

CPA-34947 1/71

1 NEW SUBSECTION. When a person seeking a commutation is
2 a widow or widower, a permanently and totally disabled em-
3 ployee, or a dependent who is entitled to benefits as pro-
4 vided in section eighty-five point thirty-one (85.31), sub-
5 section one (1), paragraphs c and d of the Code, the future
6 payments which may be commuted shall not exceed the number
7 of weeks which shall be indicated by probability tables desig-
8 nated by the industrial commissioner for death and remarriage,
9 subject to the provisions of chapter seventeen A (17A) of
10 the Code.
11 Sec. 19. Section eighty-five point sixty-one (85.61),
12 Code 1973, is amended by adding the following new subsections:
13 NEW SUBSECTION. "Pay period" means that period of em-
14 ployment for which the employer customarily or regularly makes
15 payments to his employees for work performed or services ren-
16 dered.
17 NEW SUBSECTION. "Payroll taxes" means the following:
18 a. An amount equal to the amount which would be withheld
19 under the Internal Revenue Code of 1954, and regulations pur-
20 suant thereto, as amended to July 1, 1973, as though the em-
21 ployee had elected to claim the maximum number of exemptions
22 for actual dependency, blindness and old age to which the
23 employee is entitled on the date on which he was injured,
24 and
25 b. An amount equal to the amount which would be withheld
26 under chapter four hundred twenty-two (422) of the Code, and
27 any regulations pursuant thereto, as though the employee had
28 elected to claim the maximum number of exemptions for actual
29 dependency, blindness and old age to which the employee is
30 entitled on the date on which he was injured; and
31 c. An amount equal to the amount required by the Social
32 Security Act of 1935 as amended to July 1, 1973, to be de-
33 ducted or withheld from the amount of earnings of the employee
34 at the time of the injury as if the earnings were earned at
35 the beginning of the calendar year in which he was injured.

CPA-34946 1/71

1 NEW SUSBSECTION. "Spendable weekly earnings" is that
2 amount remaining after payroll taxes are deducted from gross
3 weekly earnings.
4 Sec. 20. Section eighty-five point sixty-one (85.61),
5 subsection three (3), paragraph a, Code 1973, is amended to
6 read as follows:
7 a. A person whose employment is purely casual and not
8 for the purpose of the employer's trade or business except
9 as otherwise provided in section eighty-five point one (85.1)
10 of the Code.
11 Sec. 21. Section eighty-five point sixty-one (85.61),
12 subsection five (5), paragraph b, Code 1973, is amended to
13 read as follows:
14 b. They shall not include a disease unless it shall re-
15 sult from the injury and they shall not include an occupa-
16 tional disease as defined in section eighty-five A point eight
17 (85A.8) of the Code.
18 Sec. 22. Section eighty-five A point four (85A.4), Code
19 1973, is amended to read as follows:
20 85A.4 DISABLEMENT DEFINED. Disablement as that term is
21 used in this chapter is the event or condition where an em-
22 ployee becomes actually incapacitated from performing his
23 work or from earning equal wages in other suitable employ-
24 ment because of an occupational disease as ~~designated and~~
25 defined in this chapter in the last occupation in which such
26 employee is injuriously exposed to the hazards of such disease.
27 Sec. 23. Section eighty-five A point five (85A.5), Code
28 1973, is amended to read as follows:
29 85A.5 COMPENSATION PAYABLE. All employees subject to
30 the provisions of this chapter who shall become disabled from
31 injurious exposure to an occupational disease herein desig-
32 nated and defined within the conditions, limitations and
33 requirements provided herein, shall receive compensation,
34 reasonable surgical, medical, osteopathic, chiropractic, phy-
35 sical rehabilitation, nursing and hospital services and sup-

CPA-34947 1/71

plies therefor, and burial expenses as provided in the workmen's compensation law of Iowa except as otherwise provided in this chapter.

If, however, an employee incurs an occupational disease for which he would be entitled to receive compensation if he were disabled as provided herein, but is able to continue in employment and requires medical treatment for said disease, then he shall receive reasonable medical services therefor~~,-but-not-in-excess-of-the-amount-provided-in-section-85.27~~.

Sec. 24. Section eighty-five A point eight (85A.8), Code 1973, is amended to read as follows:

85A.8 OCCUPATIONAL DISEASE DEFINED. Occupational diseases shall be only those diseases ~~hereinafter-designated-and-defined-and~~ which arise out of and in the course of the employee's employment ~~hereinafter-designated-and-described~~. Such diseases shall have a direct causal connection with the ~~designated-occupations-or-processes-hereinafter-set-out opposite-such-named-diseases-respectively~~ employment and must have followed as a natural incident thereto from injurious exposure occasioned by the nature of the ~~occupation-or-process~~ employment. Such disease must be incidental to the character of the business, occupation or process in which the employee was employed and not independent of the employment. Such disease need not have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have resulted from that source as an incident and rational consequence. A disease which follows from a hazard to which an employee has or would have been equally exposed outside of said occupation is not compensable as an occupational disease.

Sec. 25. Section eighty-five A point ten (85A.10), Code 1973, is amended to read as follows:

85A.10 LAST EXPOSURE--EMPLOYER LIABLE. Where compensation is payable for an occupational disease, the employer

CPA-34946 1/71

in whose employment the employee was last injuriously exposed to the hazards of such disease, shall be liable therefor. The notice of injury and claim for compensation as hereinafter required shall be given and made to such employer, provided, that in case of ~~silicosis~~ pneumoconiosis, the only employer liable shall be the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of not less than sixty days ~~which period shall be after October 1, 1947~~.

Sec. 26. Section eighty-five A point twelve (85A.12), unnumbered paragraph one (1), Code 1973, is amended to read as follows:

An employer shall not be liable for any compensation for an occupational disease unless such disease shall be due to the nature of an employment in which the hazards of such disease actually exist, and which hazards are characteristic thereof and peculiar to the trade, occupation, process, or employment, and such disease actually arises out of the employment, and unless disablement or death results within three years in case of ~~silicosis~~ pneumoconiosis, or within one year in case of any other occupational disease, after the last injurious exposure to such disease in such employment, or in case of death, unless death follows continuous disability from such disease commencing within the period above limited for which compensation has been paid or awarded or timely claim made as provided by this chapter and results within seven years after such exposure.

Sec. 27. Section eighty-five A point thirteen (85A.13), Code 1973, is amended to read as follows:

85A.13 PROVISIONS RELATING TO ~~SILICOSIS~~ PNEUMOCONIOSIS.

1. ~~SILICOSIS~~ PNEUMOCONIOSIS DEFINED. Whenever used in this chapter, ~~"silicosis"~~ "pneumoconiosis" shall mean the characteristic fibrotic condition of the lungs caused by the inhalation of ~~silica~~ dust particles.

2. PRESUMPTIONS. In the absence of conclusive evidence

CPA-34967 1/71

in favor of the claim, disability or death from ~~silicosis~~ pneumoconiosis shall be presumed not to be due to the nature of any occupation within the provisions of this chapter unless during the ten years immediately preceding the disablement of the employee who has been exposed to the inhalation of ~~silica~~ dust particles over a period of not less than five years, two years of which shall have been in employment in this state.

3. COMPENSATION PAYABLE. Except as in this chapter otherwise provided, compensation for disability from uncomplicated ~~silicosis~~ pneumoconiosis shall be payable in accordance with the provisions hereof; provided, however, that no compensation shall be payable for disability from ~~silicosis~~ pneumoconiosis of less than thirty-three and one-third percent of total, and provided further that, during the transitory period, the aggregate compensation payable to employees and their dependents for disability and death for uncomplicated ~~silicosis~~ pneumoconiosis shall be limited as follows: If disablement occurs or in case of no claim for prior disablement, if death occurs in the third calendar month after October 1, 1947, the total compensation and death benefits payable shall not exceed the sum of five hundred dollars. If disablement occurs or in case of no claim for prior disablement, if death occurs during the next calendar month, the total compensation and death benefits payable shall not exceed five hundred fifty dollars. Thereafter, the total amount or limit of the compensation and death benefits payable for disability and death shall be increased at the rate of fifty dollars per month, the aggregate payable in each case to be limited according to the foregoing formula for the month in which disability occurs, or, in case of no claim for prior disablement, in which death occurs. Such progressive increase in the limits of the aggregate compensation and benefits for disability and death shall continue until the limit upon such benefits fixed in the workmen's

CPA-34946 1/71

compensation law is reached, and thereafter the total aggregate of such compensation and benefits shall be the total compensation and benefits otherwise provided in the workmen's compensation law.

4. ~~SILICOSIS~~ PNEUMOCONIOSIS COMPLICATED WITH OTHER DISEASES. In case of disability or death from ~~silicosis~~ pneumoconiosis complicated with tuberculosis of the lungs, compensation shall be payable as for uncomplicated ~~silicosis~~ pneumoconiosis, provided, however, that the ~~silicosis~~ pneumoconiosis was an essential factor in causing such disability or death. In case of disability or death from ~~silicosis~~ pneumoconiosis complicated with any other disease, or from any other disease complicated with ~~silicosis~~ pneumoconiosis, the compensation shall be reduced as herein provided.

Sec. 28. Section eighty-six point thirty-four (86.34), Code 1973, is amended to read as follows:

86.34 REVIEW OF AWARD OR SETTLEMENT. 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 or a deputy commissioner at the request of the employer or of the employee at any time within three years from the date of the last payment of compensation made under such award or agreement, 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. Once an award for payments or agreement for settlement under this chapter has been made where the amount has not been commuted, the commissioner may at any time upon proper application make a determination and appropriate order concerning the entitlement of an employee to benefits provided for in section eight-five point twenty-seven (87.27) of the Code. Any party aggrieved by any decision or order of the industrial commissioner or a deputy commissioner on a review of award or settlement as provided in this section, may appeal to the district court

CPA-34947 1/71

1 of the county in which the injury occurred and in the same
2 manner as is provided in section 86.26.
3 Sec. 29. Chapter eighty-five (85), Code 1973, is amended
4 by adding the following new section:
5 NEW SECTION. If an employee, while working outside the
6 territorial limits of this state, suffers an injury on account
7 of which he, or in the event of his death, his dependents,
8 would have been entitled to the benefits provided by this
9 chapter had such injury occurred within this state, such
10 employee, or in the event of his death resulting from such
11 injury, his dependents, shall be entitled to the benefits
12 provided by this chapter, provided that at the time of such
13 injury:
14 1. His employment is principally localized in this state,
15 that is, his employer has a place of business in this or some
16 other state and he regularly works in this state, or if he
17 is domiciled in this state, or
18 2. He is working under a contract of hire made in this
19 state in employment not principally localized in any state,
20 or
21 3. He is working under a contract of hire made in this
22 state in employment principally localized in another state,
23 whose workmen's compensation law is not applicable to his
24 employer, or
25 4. He is working under a contract of hire made in this
26 state for employment outside the United States.
27 Sec. 30. Section eighty-five A point nine (85A.9), Code
28 1973, is repealed.
29 EXPLANATION
30 This bill amends the workmen's compensation, industrial
31 commissioner and occupational disease statutes to require
32 coverage of agricultural employers with full-time employees
33 or an annual payroll of $2,500.00 and employers of domestic
34 or casual workers paying $200.00 a calendar quarter to em-
35 ployees; provide full coverage for work related diseases;

CPA-34946 1/71

1 remove any statute of limitations for medical care and re-
2 lated services for work injuries; increase the maximum bene-
3 fit levels on a progressive scale; provide for lifetime bene-
4 fits for permanent total disabilities; provide for unlimited
5 healing period for permanent partial disabilities; remove
6 the limitation for temporary total disabilities; provide life-
7 time benefits to widows or widowers or until remarriage and
8 to dependent children until age 18 or up to age 25 if in an
9 accredited educational institution or for life if disabled;
10 and provide for injured workmen to be compensated at a rate
11 based upon 80 percent of his "spendable earnings".
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

S—415

1 Amend Senate File 495, page 2, by striking lines 30
2 through 35 and inserting in lieu thereof the following:
3 "b. Who employs at least one person regularly. An
4 employer shall be deemed to employ a person regularly
5 if he employs at least one person for forty hours or more
6 per week for thirteen consecutive weeks during any part of
7 the preceeding twelve months."

S—415 Filed - adopted 4/25 By DE KOSTER
April 19, 1973

S—449

1 Amend Senate File 495, page 2, line 24, by striking
2 the numeral "1974" and inserting in lieu thereof the
3 numeral "1975".

S—449 Filed and lost By PRIEBE and TIEDEN
April 25, 1973

S—450

1 Amend Senate File 495, page 2, as follows:
2 1. Line 3 by striking the word "person" and inserting in
3 lieu thereof the word "employee".
4 2. Line 8 by striking the word "person" and inserting
5 in lieu thereof the word "employee".

S—450 Filed and adopted By GLENN
April 25, 1973

S—452

1 Amend Senate File 495 as follows:
2 1. Page 2, line 5, by striking the figures "1975"
3 and inserting in lieu thereof the figures "1974".
4 2. Page 2, line 14, by striking the figures "1975"
5 and inserting in lieu thereof the figures "1974".

S—452 Filed and adopted By GLENN
April 25, 1973