

No. 482

## AN ACT

To further amend the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," by increasing maximum and minimum rates and total amounts and aggregate of compensation, and further defining the liability of the employer and the Commonwealth; removing the limitation on total disability or death caused by certain occupational diseases; eliminating the medical board and its functions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clauses (a) and (e) of section three hundred one and clauses (a), (c) and (d) of section three hundred six of the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," clause (a) of section three hundred one and clauses (a) and (c) of section three hundred six of which were last amended by the act, approved the fourteenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1379), are hereby amended or further amended to read as follows:

Section 301. (a) When employer and employe shall by agreement, either express or implied, as hereinafter

The Pennsylvania Occupational Disease Act.

Clauses (a) and (e) of section 301 and clauses (a), (c) and (d) of section 306, act of June 21, 1939, P. L. 566, clause (a) of section 301 and clauses (a) and (c) of section 306 of which were last amended by act of May 14, 1949, P. L. 1379, amended or further amended.

Agreement between employer and employe.

provided, accept the provisions of article three of this act, compensation for disability or death of such employe, caused by occupational disease arising out of and in the course of his employment, shall be paid by the employer, without regard to negligence, according to the schedule contained in sections three hundred and six and three hundred and seven of this article, but—

Negligence no bar.

No compensation when disability or death caused by employe's violation of law.

1. No compensation shall be paid when the disability or death is caused by the employe's violation of law, but the burden of proof of such fact shall be upon the employer.

Maximum compensation for disability and death resulting from silicosis, etc.

2. The maximum compensation payable under this article for disability and death resulting from silicosis, anthraco-silicosis, or \*asbestosis shall not exceed the sum of [five thousand dollars (\$5000)] *six thousand five hundred dollars (\$6500)*, which shall be full and complete payment for all disability, present or future, or for death from such occupational diseases arising out of employment by any and all employers in this Commonwealth.

\* \* \* \* \*

No compensation for partial disability from silicosis, etc.

Compensation payable for total disability or death from silicosis, etc.

(e) Compensation shall not be payable for partial disability due to silicosis, anthraco-silicosis, or asbestosis. Compensation shall be payable, as otherwise provided in this act, for total disability or death caused [solely (as definitely distinguished from a contributory or accelerating cause)] by silicosis, anthraco-silicosis, or asbestosis, or by silicosis, anthraco-silicosis, or asbestosis, when accompanied by active pulmonary tuberculosis.

Schedule of compensation.

Section 306. The following schedule of compensation is hereby established for total disability resulting from occupational disease, subject to the limitations of section 301:

Total disability.

(a) For the first [five] *seven* hundred weeks after the seventh day of total disability sixty-six and two-thirds per centum of the wages of the disabled employe as defined in section three hundred and nine; but the compensation shall not be more than [twenty-five] *thirty* dollars per week nor less than [twelve dollars and fifty cents] *twenty* dollars per week, and shall not exceed in the aggregate the sum of [twelve thousand five hundred] *twenty thousand* dollars: Provided, That if at the date when disability begins, the employe receives wages of less than [twelve dollars and fifty cents] *twenty* dollars per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than [six dollars and twenty-five cents] *ten* dollars per week. Nothing in this clause shall require payment of compensation after disability shall cease. Should partial disability be followed by total disability, the

Proviso.

Partial disability followed by total disability.

\* "asbestosis" in original.

period of five hundred weeks mentioned in this clause of this section shall be reduced by the number of weeks during which compensation was paid for such partial disability.

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(c) For all disability resulting from loss or loss of the use of members resulting from occupational disease, the compensation shall be exclusively as follows:

Schedule of compensation for disability resulting from loss or loss of use of members.

For the loss of a hand, sixty-six and two-thirds per centum of wages during one hundred and seventy-five weeks.

For the loss of a forearm, sixty-six and two-thirds per centum of wages during one hundred and ninety-five weeks.

For the loss of an arm, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of a foot, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a lower leg, sixty-six and two-thirds per centum of wages during one hundred and eighty weeks.

For the loss of a leg, sixty-six and two-thirds per centum of wages during two hundred and fifteen weeks.

For the loss of an eye, sixty-six and two-thirds per centum of wages during one hundred and twenty-five weeks.

For the complete loss of hearing in both ears, sixty-six and two-thirds per centum of wages during one hundred and fifty weeks.

For the loss of a thumb, sixty-six and two-thirds per centum of wages during sixty weeks.

For the loss of a first finger, commonly called index finger, sixty-six and two-thirds per centum of wages during thirty-five weeks.

For the loss of a second finger, sixty-six and two-thirds per centum of wages during thirty weeks.

For the loss of a third finger, sixty-six and two-thirds per centum of wages during twenty weeks.

For the loss of a fourth finger, commonly called little finger, sixty-six and two-thirds per centum of wages during fifteen weeks.

The loss of the first phalange of the thumb, or of any finger, shall be considered equivalent to the loss of one-half of such thumb, or finger, and shall be compensated at the same rate as for the loss of a thumb, or finger, but for one-half of the period provided for the loss of a thumb, or finger.

The loss of more than one phalange of a thumb, or finger, shall be considered equivalent to the loss of the entire thumb or finger.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

For the loss of a great toe, sixty-six and two-thirds per centum of wages during forty weeks.

For the loss of any other toe, sixty-six and two-thirds per centum of wages during sixteen weeks.

The loss of the first phalange of the great toe, or of any toe, shall be considered equivalent to the loss of one-half of such great toe, or other toe, and shall be compensated at the same rate as for the loss of a great toe, or other toe, but for one-half of the period provided for the loss of a great toe or other toe.

The loss of more than one phalange of a great toe, or any toe, shall be considered equivalent to the loss of the entire great toe or other toe.

For the loss of, or permanent loss of the use of, any two or more such members, not constituting total disability, sixty-six and two-thirds per centum of wages during the aggregate of the periods specified for each.

Unless the board shall otherwise determine, the loss of both hands or both arms or both feet or both legs or both eyes shall constitute total disability, to be compensated according to the provisions of clause (a).

Amputation.

Amputation at the wrist shall be considered as the equivalent of the loss of a hand, and amputation at the ankle shall be considered as the equivalent of the loss of a foot. Amputation between the wrist and the elbow shall be considered as the loss of a forearm, and amputation between the ankle and the knee shall be considered as the loss of a lower leg. Amputation at or above the elbow shall be considered as the loss of an arm, and amputation at or above the knee shall be considered as the loss of a leg. Permanent loss of the use of a hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe, shall be considered as the equivalent of the loss of such hand, arm, foot, leg, eye, finger, or thumb, great toe or other toe.

Rate of compensation.

Proviso.

This compensation shall not be more than [twenty-five] *thirty* dollars per week nor less than [twelve dollars and fifty cents] *twenty dollars* per week: Provided, That if at the time of disability the employe receives wages of less than [twelve dollars and fifty cents] *twenty dollars* per week, then he shall receive the full amount of such wages per week as compensation, but in no event less than [six dollars and twenty-five cents] *ten dollars* per week.

When period of total disability begins to run.

(d) The period of [five hundred weeks] *total disability* mentioned in clause (a), three hundred weeks

mentioned in clause (b), and the specific periods (or aggregate specific periods, as the case may be) mentioned in clause (c), shall begin to run seven days after disability begins, and shall run concurrently.

Section 2. Section 307 and clause (a) of section three hundred eight of said act, as last amended by the act, approved the fourteenth day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1379), is hereby further amended to read as follows:

Section 307 and clause (a) of section 308, said act, as last amended by act of May 14, 1949, P. L. 1379, further amended.

Section 307. In case of death resulting from occupational disease, compensation shall be computed on the following basis and distributed to the following persons, subject to the limitations of section 301.

Compensation in case of death.

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or, if there be no guardian, to such other persons as may be designated by the board as hereinafter provided, as follows:

To child or children, where no widow or widower.

(a) If there be one child, twenty-five per centum of wages of deceased, but not in excess of [eight dollars and seventy-five cents] *ten dollars and fifty cents* per week.

Compensation payable where one child.

(b) If there be two children, thirty-five per centum of wages of deceased, but not in excess of [twelve dollars and fifty cents] *fifteen dollars* per week.

Two children.

(c) If there be three children, forty-five per centum of wages of deceased, but not in excess of [sixteen dollars and twenty-five cents] *nineteen dollars and fifty cents* per week.

Three children.

(d) If there be four children, fifty-five per centum of wages of deceased, but not in excess of [twenty] *twenty-four* dollars per week.

Four children.

(e) If there be five children, sixty-two and one-half per centum of \*wages of deceased, but not in excess of [twenty-two dollars and fifty cents] *twenty-seven* dollars per week.

Five children.

(f) If there be six or more children, sixty-six and two-thirds per centum of wages of deceased, but not in excess of [twenty-six] *thirty* dollars per week.

Six or more children.

2. To the widow or widower, if there be no children, forty-four per centum of wages, but not in excess of [fifteen] *eighteen* dollars per week.

To widow or widower, if no children.

3. To the widow or widower, if there be one child, fifty-three per centum of wages, but not in excess of [eighteen dollars and seventy-five cents] *twenty-two* dollars and fifty cents per week.

To widow or widower, if one child.

4. To the widow or widower, if there be two children, sixty-two and one-half per centum of wages, but not in excess of [twenty-two dollars and fifty cents] *twenty-seven* dollars per week.

To widow or widower, if two children.

\* "wage" in original.

To widow or widower, if three or more children.

5. To the widow or widower, if there be three or more children, sixty-six and two-thirds per centum of wages, but not in excess of [twenty-five] *thirty* dollars per week.

To father or mother.

6. If there be neither widow, widower, nor children, entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of his death, twenty-five per centum of wages, but not in excess of [seven \*dollars and fifty cents] *nine dollars* per week: Provided, however, That in the case of a *minor child who has been contributing to his parents, the dependency of said parents shall be presumed*: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of his death, the compensation payable to such father or mother shall be forty-five per centum of wages, but not in excess of [thirteen dollars and seventy-five cents] *sixteen dollars and fifty cents* per week.

Proviso.

Further proviso.

To brothers and sisters.

7. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, fifteen per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of twenty-five per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

Burial expenses.

8. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding two hundred and fifty dollars, which shall be paid by the employer or insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses).

Compensation payable only while child, brother or sister is under 16 years of age.

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child, brother, or sister is under the age of sixteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include stepchildren, adopted children, and children to whom he stood in loco parentis and shall include posthu-

Certain widows not entitled to compensation.

Certain widowers not entitled to compensation.

"Child" and "children."

\* "dollar" in original.

mous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, That upon remarriage of any widow the compensation of such widow shall continue, as hereinbefore provided, for one-third of the period during which compensation then remains payable to her: Provided further, That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The wages upon which death compensation shall be based shall not in any case be taken to exceed [thirty-seven dollars and fifty cents] *forty-five dollars* per week, nor be less than [twenty-one dollars and twenty-five cents] *twenty-five dollars and fifty cents* per week.

This compensation shall be paid during three hundred weeks and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred weeks until such child reaches the age of sixteen, at the rate of seventeen and one-half per centum of wages, but not in excess of [five dollars and seventy-five cents] *six dollars and ninety cents* per week, if there is one child; twenty-seven and one-half per centum of wages, but not in excess of [eight dollars and seventy-five cents] *ten dollars and fifty cents* per week, if there are two children; thirty-eight and one-half per centum of wages, but not in excess of [twelve dollars and fifty cents] *fifteen dollars* per week, if there are three children; fifty per centum of wages, but not in excess of [sixteen dollars and twenty-five cents] *nineteen dollars and fifty cents* per week, if there are four children; fifty-five per centum of wages, but not in excess of [seventeen dollars and fifty cents] *twenty-one dollars* per week, if there be five children; and sixty per centum of wages, but not in excess of [twenty dollars] *twenty-four dollars* per week, if there be six children or more.

The board may if the best interest of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a

Death or remarriage of dependent, or where widower becomes capable of self-support.

Proviso.

Further proviso.

Where compensation payable, for any cause, ceases.

Basis of death compensation.

Period during which compensation payable.

Rate of compensation.

Board may direct payment of compensation to guardian of minor children.

widow or \*a widower on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent or insane employe, or dependent, to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Payment may be made to surviving parent where there is no guardian.

Board may order accounting in certain cases.

Bond.

When compensation shall be paid jointly by employer and Commonwealth.

Proportions of payments by employer and Commonwealth, between certain dates.

Proportional payments if disability begins after September 30, 1951.

Section 308. (a) When compensation is awarded because of disability or death caused by silicosis, anthracosilicosis, asbestosis, or any other occupational disease which developed to the point of disablement only after an exposure of five or more years, the compensation for disability or death due to such disease shall be paid jointly by the employer and the Commonwealth, in accordance with the following provisions: If disability begins between October 1, 1939, and September 30, 1941, both dates inclusive, the employer shall be liable for and pay fifty per centum of the compensation due and the Commonwealth fifty per centum thereof. Thereafter, depending upon the date when disability begins, the proportions of compensation for which the employer and the Commonwealth shall respectively become liable shall be: If disability begins between October 1, 1941, and September 30, 1943, the employer sixty per centum and the Commonwealth forty per centum; if between October 1, 1943, and September 30, 1945, the employer seventy per centum and the Commonwealth thirty per centum; if between October 1, 1945, and September 30, 1947, the employer eighty per centum and the Commonwealth twenty per centum; if between October 1, 1947, and September 30, 1951, the employer ninety per centum and the Commonwealth ten per centum. [The employer shall pay the full amount of compensation provided in this act for disability or death in all cases where disability begins on or after October 1, 1951.] *If disability begins after September 30, 1951, the employer shall be liable for sixty per centum of the compensation due and the Commonwealth forty per centum.*

\* "a" omitted in original.



Section 3. Section 401 of said act, is amended by the act, approved the twelfth day of June, one thousand nine hundred forty-one (Pamphlet Laws 125), is hereby further amended to read as follows :

Section 401, said act, as amended by act of June 12, 1941. P. L. 125, further amended.

Section 401. The term "employer," when used in this article, shall mean the employer as defined in article one of this act, or his duly authorized agent, or his insurer if such insurer has assumed the employer's liability, or the State Workmen's Insurance Fund of this Commonwealth if the employer be insured therein.

Meaning of term "employer."

The department shall be deemed a "party in interest" in any proceeding under this article before a referee, the board or any court involving any claim for compensation, a part of which is payable by the Commonwealth under the provisions of this act.

When department deemed a "party in interest."

[The term "medical board" shall mean a medical board constituted as provided in section four hundred and two.]

Section 4. Sections 402 and 420 of said act are hereby repealed.

Sections 402 and 420, said act, repealed.

Section 5. Sections 421, 422 and 423 of said act are hereby amended to read as follows :

Sections 421, 422 and 423, said act, amended.

Section 421. All hearings before the board or one or more members thereof, [or before the medical board,] or before a referee, shall be public.

Hearings to be public.

Section 422. The board, its members *and* the referees [, and the medical board] shall not be bound by the technical rules of evidence in conducting hearings and investigations, but all findings of fact shall be based only upon sufficient, competent evidence to justify them.

Board, etc., not bound by technical rules of evidence.

If any party or witness resides outside of the Commonwealth, or through illness or other cause is unable to testify before the board or a referee, [or the medical board,] his or her testimony or deposition may be taken, within or without this Commonwealth, in such manner and in such form as the board may, by special order or general rule, prescribe. The records, kept by a hospital of the medical or surgical treatment given to an employe in such hospital, shall be admissible as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters.

Testimony or depositions may be taken within or without Commonwealth in certain cases.

Hospital records.

Section 423. Any party in interest may, within twenty days after notice of a referee's award or disallowance of compensation shall have been served upon him, take an appeal to the board on the ground: (1) that the award or disallowance of compensation is not in conformity with the terms of this act, or that the referee committed any other error of law; (2) that the findings of fact and award or disallowance of compensation was unwarranted by sufficient, competent evidence, or was

Appeal to board from referee's decision.

Grounds for appeal.

procured by fraud, coercion, or other improper conduct of any party in interest. The board may, upon cause shown, extend the time provided in this article for taking such appeal or for the filing of an answer or other pleading.

Board may disregard referee's findings of fact and substitute own findings.

In any such appeal the board may disregard the findings of fact of the referee, and may examine the testimony taken before such referee, and if it deem proper may hear other evidence, and may substitute for the findings of the referee such findings of fact as the evidence taken before the referee and the board, as hereinbefore provided, may, in the judgment of the board, require, and may make such disallowance or award of compensation or other order as the facts so founded by it may require [; but the board shall accept as conclusive upon it, the findings and conclusions of the medical board].

Disallowance or award of compensation by board.

Act effective immediately.

Section 6. The provisions of this act shall become effective immediately upon final enactment.

APPROVED—The 2nd day of January, A. D. 1952.

JOHN S. FINE

No. 483

### AN ACT

To amend the act, approved the twelfth day of June, one thousand nine hundred fifty-one (Pamphlet Laws 533), entitled "An act relating to mental health, including mental illness, mental defect, epilepsy and inebriety; and amending, revising, consolidating and changing the laws relating thereto," by further providing for refusal to issue and revocation of licenses.

"The Mental Health Act of 1951."

Section 212, act of June 12, 1951, P. L. 533, amended by adding, at end of section 212 thereof, a new subsection (e).

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 212 of the act, approved the twelfth day of June, one thousand nine hundred fifty-one (Pamphlet Laws 533), entitled "An act relating to mental health, including mental illness, mental defect, epilepsy and inebriety; and amending, revising, consolidating and changing the laws relating thereto," is hereby amended by adding, at the end of section 212 thereof, a new subsection to read as follows:

Section 212. Application for and Grant of License.—

\* \* \* \* \*

(e) *If, after investigation, the department is not satisfied that the applicant should receive a license under this section, it shall notify the applicant of its decision refusing to issue the license. Such decision shall be final.*