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LAWS

OF THE

STATE OF ILLINOIS

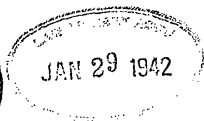
ENACTED BY THE

FIFTY-NINTH GENERAL ASSEMBLY

AT THE

FIRST SPECIAL SESSION

Begun and Held at the Capitol, in the City of Springfield, on the Twenty-eighth Day of October, A. D. 1935, and Adjourned Sine Die on the Sixth Day of March, A. D. 1936.



§ 19. This Act shall be known and may be cited as the "Health and Safety Act."

§ 20. That "An Act to provide for the health, safety and comfort of employees in factories, mercantile establishments, mills and workshops in this State, and to provide for the enforcement thereof, and to repeal an Act entitled, 'An Act to provide for the health, safety and comfort of employees in factories, mercantile establishments, mills and workshops in this State, and to provide for the enforcement thereof,' approved June 4, 1909," approved June 29, 1915, as amended, be and the same hereby is repealed, such repeal to take effect July 1, 1937; and that section 4 of "An Act in relation to employments creating poisonous fumes or dust in harmful quantities, and to provide for the enforcement thereof," approved June 29, 1915, be and the same hereby is repealed, such repeal to take effect October 1, 1936; and that "An Act providing for the reporting, compiling and publishing of information concerning accidents to and deaths by accident of employes," approved May 24, 1907, be and the same hereby is repealed, such repeal to take effect upon the passage of this Act.

§ 21. No repeal of any Act herein contained shall extinguish or in any way affect any right of action thereunder, existing at the time this Act takes effect.

APPROVED March 16, 1936.

OCCUPATIONAL DISEASES.

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| 1. Title of Act. | § 21. Compensation, not assignable, subject to lien attachment or garnishment. |
| 2. Liability of employer. | § 22. Fraudulent contract or agreement. |
| 3. Right of action of employee. | § 23. Right to waive any provision of Act. |
| 4. Employer election to pay compensation. | § 24. Notice to employer for compensation. |
| 5. Definition. | § 25. Length of time employee exposed—Employer liable. |
| 6. Occupational disease defined. | § 26. Provisions for employers to pay compensation. |
| 7. Compensation, resulting in death. | § 27. Associations and departments not affected. |
| 8. Compensation, resulting in disability. | § 28. Liable for compensation. |
| 9. Payment of compensation. | § 29. Procedure for compensation, where disablement or death not caused by negligence of employer or employees. |
| 10. Computing compensation. | § 30. Report to commission. |
| 11. Application for adjustment of claim. | § 31. Posting of notices. |
| § 12. Employee to submit to examination. | § 32. Penalty. |
| 13. Compensation not liable for. | § 33. Act repealed. |
| 14. Compensation to commission, arbitrators, other employees. | § 34. Validity of Act. |
| 15. Jurisdiction of commission. | § 35. Effective date. |
| 16. Rules and orders of commission. | |
| 17. Forms, records. | |
| 18. Industrial commission to settle disputed question. | |
| § 19. Procedure of disputed questions. | |
| § 20. Industrial commission report. | |

(HOUSE BILL No. 10. APPROVED MARCH 16, 1936.)

AN ACT to promote the general welfare of the people of this State by providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment; providing for enforcement and administration thereof, and to repeal an Act and a part of a certain Act herein named.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

SECTION 1. This Act shall be known and may be cited as the "Workmen's Occupational Diseases Act".

§ 2. There shall be no liability of any employer for compensation or damages for or on account of any injury to health, disease, or death therefrom, other than for the compensation herein provided or for damages as provided in section 3 of this Act; provided that this section shall not affect any right to compensation under the "Workmen's Compensation Act".

§ 3. Where an employee in this State sustains injury to health or death by reason of a disease contracted or sustained in the course of the employment and proximately caused by the negligence of the employer, unless such employer shall have elected to provide and pay compensation as provided in section 4 of this Act, a right of action shall accrue to the employee whose health has been so injured for any damages sustained thereby; and in case of death, a right of action shall accrue to the widow of such deceased person, his lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support upon such deceased person, for a like recovery of damages for the injury sustained by reason of such death not to exceed the sum of ten thousand dollars (\$10,000.00); provided, that violation by any employer of any effective rule or rules made by the industrial commission pursuant to the Health and Safety Act, enacted by the Fifty-ninth General Assembly at the third special session, or violation by the employer of any statute of this State, intended for the protection of the health of employees, shall be and constitute negligence of the employer within the meaning of this section; *provided further*, that every such action for damage for injury to the health shall be commenced within three (3) years after the last day of the last exposure to the hazards of the disease and that every such action for damages in case of death shall be commenced within one (1) year after the death of such employee and within five (5) years after the last day of the last exposure to the hazards of the disease: *Provided further*, that in any action to recover damages under this section, it shall not be a defense that the employee either expressly or impliedly assumed the risk of the employment, or that the contraction or sustaining of the disease or death was caused in whole or in part by the negligence of a fellow servant or fellow servants, or that the contraction or sustaining of the disease or death resulting was caused in whole or in part by the contributory negligence of the employee, where such contributory negligence was not wilful.

§ 4. (a) Any employer in this State may elect to provide and pay compensation according to the provisions of this Act, for disability or death resulting from occupational diseases, and such election, when effective, shall apply to all cases in which the last day of the last exposure as defined in this Act to the hazards of the occupational disease claimed upon shall have occurred on or after the effective date of such election, and shall relieve such employer of all liability under section 3 of this Act and all other liability with respect to injury to health or death therefrom by reason of any disease contracted or sustained in the course of the employment.

The employer liable for the compensation in this Act provided shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed upon regardless of the length of time of such last exposure, *provided*, that in cases of silicosis or asbestosis, the only employer liable shall be the last employer in whose employment the employee was last exposed during a period of sixty (60) days or more after the effective date of this Act, to the hazard of such occupational disease, and, in such cases, an exposure during a period of less than sixty (60) days, after the effective date of this Act, shall not be deemed a last exposure.

The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering such employer liable in accordance with the provisions of this Act.

§ 26. (a) Any employer electing to provide and pay the compensation provided for in this Act shall:

(1) File with the commission a sworn statement showing his financial ability to pay the compensation provided for in this Act, the affidavit to which statement shall be signed and sworn to by the president or vice president and secretary or assistant secretary of said employer if it be a corporation, or by all of the partners if it be a co-partnership, or by the owner if it be neither a co-partnership nor a corporation, or if any such employer fails to file such a sworn statement, or if the sworn statement of any such employer does not satisfy the commission of the financial ability of the employer who has filed it, the commission shall require such employer to,

(2) Furnish security, indemnity or a bond guaranteeing the payment by the employer of the compensation provided for in this Act, or

(3) Insure his entire liability to pay such compensation in some insurance carrier authorized, licensed, or permitted to do such insurance business in this State; *provided*, all policies of such insurance carriers insuring the payment of compensation under this Act shall cover all the employees and all such employer's compensation liability in all cases in which the last day of the last exposure to the occupational disease involved is within the effective period of the policy, anything to the contrary in said policy notwithstanding; *provided, further*, that no policy of insurance in effect at the time of the enactment of this Act, covering the liability of an employer for workmen's compensation, shall be construed to cover the liability of such employer under this Act for any occupational disease unless such liability is expressly accepted by the insurance carrier issuing such policy and is endorsed thereon; the insurance or security in force to cover compensation liability under this Act shall be separate and distinct from the insurance or security under the "Workmen's Compensation Act" and any insurance contract covering liability under either Act need not cover any liability under the other; nothing herein contained shall apply to policies of excess liability carriage secured by employers who have qualified under sub-paragraphs 1 or 2 of paragraph (a) of this section, or

(4) Make some other provision, satisfactory to the industrial commission, for the securing of the payment of compensation provided for in this Act, and