FILE NAME: The Budd Company (BUD)

DATE: 1939

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DOCUMENT DESCRIPTION: Text of the Occupational Disease Act

TEXT OF THE OCCUPATIONAL DISEASE ACT

ACT NO. 284, 1939 P. L. 556.

AN ACT defining the liability of an employer to pay damages for occupational disease contracted by an employee 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.

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

ARTICLE I

INTERPRETATION AND DEFINITIONS

Section 101. This act shall be called and may be cited as The Pennsylvania Occupational Disease Act. It shall apply to disabilities and deaths caused by occupational disease as defined in this act, resulting from employment within this Commonwealth, irrespective of the place where the contract of hiring was made, renewed, or extended, and shall not apply to any such disabilities and deaths resulting from employment outside of the Commonwealth.

Section 102. Wherever in this act the singular is used, the plural shall be included; and where the masculine gender is used, the feminine and neuter shall be included.

Section 103. The term "employer," as used in this act, is declared to be synonymous with master, and to include natural persons, partnerships, joint-stock companies, corporations for profit, corporations not for profit, municipal corporations, the Commonwealth, and all governmental agencies created by it.

*Section 104. The term "employee," as used in this act, is declared to be synonymous with servant, and includes all natural persons who perform services, except agricultural services or domestic services performed in a private home, for another for a valuable consideration, exclusive of persons whose employment is casual in character and not in the regular course of the business of the employer and exclusive of persons to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired, or adapted for sale, in the worker's own home, or on other premises not under the control or management of the employer. Every executive officer of a corporation elected or appointed in accordance with the charter and by-laws of the corporation, except elected officers of the Commonwealth or any of its political subdivisions, shall be an employee of the corporation.

* As amended by Act No. 355, Laws of 1955, effective March 29, 1956.

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: March 29, 1956.

Section 105. The term "contractor," as used in article two, section two hundred and three, and article three, section three hundred and two (b), shall not include a contractor engaged in an independent business, other than that of supplying laborers or assistants, in which he serves persons other than the employer in whose service the disability occurs, but shall include a subcontractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

Section 106. The exercise and performance of the powers and duties of a local or other public authority shall, for the purposes of this act, be treated as the trade or business of the authority.

Section 107. The term "department," when used in this act, shall mean the Department of Labor and Industry of this Commonwealth.

The term "board," when used in this act, shall mean The Workmen's Compensation Board of this Commonwealth.

The term "referee," when used in this act, shall mean Workmen's Compensation Referee.

*Section 108. The term "occupational disease," as used in this act, shall mean only the following diseases:

(a) Poisoning by arsenic, lead, mercury, manganese, or beryllium, their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(b) Poisoning by phosphorus, its preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(c) Poisoning by methanol, carbon bisulphide, hydro carbon distillates (naphthas and others), or halogenated hydro carbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(d) Poisoning by benzol, or by nitro, amido, or amino derivatives of benzol (dinitro-benzol, anilin, and others), or their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(e) Caisson disease (compressed air illness) resulting from engaging in any occupation carried on in compressed air.

(f) Radium poisoning or disability, due to radioactive properties of substances or to Roentgen-ray (X-rays) in any occupation involving direct contact with, handling thereof, or exposure thereto.

(g) Poisoning by, or ulceration from, chromic acid, or bichromate of ammonium, bichromate of potassium, or bichromate of sodium, or their preparations, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(h) Epitheliomatous cancer or ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of those substances, in any occupation involving direct contact with, handling thereof, or exposure thereto.

* As amended by Act No. 410, Laws of 1949; Act No. 239, Acts of 1951; Act Nos. 355 and 488, Laws of 1955; and by Act 650, Laws of 1959, effective December 10, 1959.

(i) Infection or inflammation of the skin due to oils, cutting compounds, lubricants, dust, liquids, fumes, gases, or vapor, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(j) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, or skins, or bodies of animals either alive or dead.

(k) Silicosis or anthraco-silicosis (commonly known as Miner's Asthma and hereinafter referred to as anthraco-silicosis) in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO_2).

(l) Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos.

(m) Tuberculosis in the occupation of nursing or auxiliary services involving exposure to such disease.

(n) All other occupational diseases (1) to which the claimant is exposed by reason of his employment, and (2) which are peculiar to the industry or occupation, and (3) which are not common to the general population. For the purposes of this clause, partial loss of hearing due to noise shall not be considered an occupational disease.

(o) Diseases of the heart and lungs, resulting in either temporary or permanent total disability or death, after four years or more of service in the full time salaried occupation of fire fighting for the benefit or safety of the public, caused by extreme over-exertion in times of stress or danger or by exposure to heat, smoke, fumes or gases, arising directly out of the employment of any such firemen.

*Section 109. No compensation shall be paid for any occupational disease if during hostile attacks on the United States, disability or death of an employee results solely from military activities of the armed forces of the United States or from military activities or enemy sabotage of a foreign power.

Article II

Damages by Action at Law

Section 201. In any action brought to recover damages for disability or death of an employee caused by occupational disease arising out of and in the course of his employment, it shall not be a defense that the occupational disease was caused in whole or in part by the negligence of a fellow employee.

Section 202. The employer shall be liable for the negligence of employees other than the plaintiff, while acting within the scope of their employment, including engineers, chauffeurs, miners, mine-foremen, fire-bosses, mine superintendents, plumbers, officers of vessels, and all other employees licensed by the Commonwealth or other governmental authority, if the employer be allowed by law the right of free selection of such employees from the class of persons thus licensed; and such employees shall be the agents and representatives of their employers, and their employers shall be responsible for the acts and neglects of such employees, as in the case of other agents and employees of their

* Added by Act No. 355, Laws of 1955, effective March 29, 1956.

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employers; and, notwithstanding the employment of such employees, the property in and about which they are employed, and the use and operation thereof, shall at all times be under the supervision, management and control of their employers.

Section 203. An employer who permits the entry upon premises occupied by him or under his control of a laborer or an assistant hired by an employer or contractor who has rejected article three of this act, for the performance upon such premises of a part of the employer's regular business entrusted to such employee or contractor, shall be liable to such laborer or assistant in the same manner and to the same extent as to his own employee.

†Section 204. No agreement, composition, or release of damages made before the date of any disability or death resulting from occupational disease, except the agreement defined in article three of this act, shall be valid or shall bar a claim for damages for such disability or death; and any such agreement other than that defined in article three herein, is declared to be against the public policy of this Commonwealth. The receipt of benefits from any association, society, or fund shall not bar the recovery of damages by action at law, nor the recovery of compensation under article three hereof; and any release executed=in consideration of such benefits shall be void: Provided, however, That if the employee receives unemployment compensation benefits, such amount or amounts so received shall be credited as against the amount of the award made under the provisions of the occupational disease act.

ARTICLE III

ELECTIVE COMPENSATION

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

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.

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 twelve thousand dollars ($12,000), 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.

(b) The right to receive compensation under this act shall not be affected by the fact that a minor is employed or is permitted to be employed in violation of the laws of this Commonwealth relating to the employment of mirrors, or that he obtained his employment by misrepresenting his age.

† As amended by Act No. 410, Laws of 1949, effective July 1, 1949.

* As amended by Act No. 286, Laws of 1945; Act No. 410, Laws of 1949; Act No. 482, Acts of 1951; Act No. 395, Laws of 1953; Act No. 355, Laws of 1955; Act 619, Laws of 1959; and by Act 710, Laws of 1961, effective November 29, 1961.