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Colorado

Workmen's Compensation

Law

of 1919

PASSED BY THE

Twenty-second General Assembly

of the

State of Colorado

AND

Industrial Commission Law

of 1915



Colorado
Workmen's Compensation
Law of 1919
AND
Industrial Commission Law
of 1915

INDUSTRIAL COMMISSION
OF COLORADO

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THOS. F. KEARNY,

Assistant Manager State Compensation Insurance Fund

OFFICE

STATE CAPITOL BUILDING
DENVER, COLORADO

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Workmen's Compensation Law

SENATE BILL NO. 59. BY SENATORS FINCHER AND
O'BRIEN, AND MR. STEPHENSON.

AN ACT TO DETERMINE, DEFINE AND PRESCRIBE THE RELATIONS BETWEEN EMPLOYER AND EMPLOYEE AND PROVIDING FOR COMPENSATION AND BENEFITS TO EMPLOYEES AND THEIR DEPENDENTS FOR ACCIDENTAL INJURY TO OR DEATH OF EMPLOYEES FOR INSURANCE OF SUCH COMPENSATION AND BENEFITS; CREATING A STATE COMPENSATION INSURANCE FUND TO PROVIDE SUCH INSURANCE, AND PROVIDING FOR ITS ADMINISTRATION BY THE INDUSTRIAL COMMISSION OF COLORADO; PROVIDING FOR THE EXERCISE OF THE POWERS AND DUTIES AND PROVISIONS OF THIS ACT BY THE INDUSTRIAL COMMISSION OF COLORADO; PRESCRIBING ITS POWERS AND DUTIES AND METHOD OF PROCEDURE; PROVIDING FOR REVIEW OF ITS PROCEEDINGS; PROVIDING PENALTIES FOR VIOLATION OF THIS ACT; REPEALING ALL ACTS AND PARTS OF ACTS IN CONFLICT WITH THIS ACT; CONTINUING THE JURISDICTION OF THE INDUSTRIAL COMMISSION OF COLORADO IN CASES ARISING UNDER PRIOR ACTS; VALIDATING ITS METHOD OF PROCEDURE UNDER FORMER ACTS; AND DECLARING THIS ACT TO BE NECESSARY FOR THE IMMEDIATE PRESERVATION OF PUBLIC PEACE, HEALTH AND SAFETY.

Be it Enacted by the General Assembly of the State of Colorado :

Section 1. This Act shall be known and may be cited as, "Workmen's Compensation Act of Colorado."

Section 2. The Industrial Commission of Colorado, created by the Act of the General Assembly of Colorado, shall enforce and administer the provisions of this Act. The said Commission, in the administration of this Act shall be governed by its provisions if there be conflict between the same and the provisions of the Act creating said Commission.

DEFINITIONS.

Section 3. The term "Commission" when used in this Act shall mean the Industrial Commission of Colorado.

Section 4. Unless the context otherwise requires, a word used in this Act in the singular number shall also include the plural; and the masculine gender shall include feminine and neuter.

Section 5. The term "order" shall mean and include any decision, finding and award, classification, rate, rule, regulation, direction, requirement or standard of the Commission, or any other determination arrived at or decision made by such Commission.

Section 6. The term "place of employment" shall mean and include every place whether indoors or outdoors or underground, and the premises, work places, works and plants appertaining thereto or used in connection therewith, where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation directly or indirectly relating to any industry, trade or business is carried on, or where any person is directly or indirectly employed by another for direct or indirect gain or profit, except as otherwise expressly provided in this Act.

Section 7. The term "employment" shall mean and include any trade, occupation, job or position, or process of manufacture or any method of carrying on any such trade, occupation, job or position or process of manufacture in which any person may be engaged, except as otherwise expressly provided in this Act.

Section 8. The term "employer" shall mean and include:

(a) The State, and each county, city, town, irrigation, drainage and school district therein, and all public institutions and administrative boards thereof without regard to the number of persons in the service of any such public employer; and provided that all such public employers shall be at all times subject to the compensation provisions of this Act.

(b) Every person, association of persons, firm and private corporation (including any public service corporation), personal representative, assignee, trustee or receiver, who has four or more persons engaged in the same business or employment (except as otherwise expressly provided in this Act), in service under any contract of hire, express or implied, and who, at or prior to the time of the accident to the employe for the compensation is claimed under this Act, has elected to become subject to the provisions of this Act, and who shall not, prior to such accident, have effected a withdrawal of such election in the manner provided in this Act.

(c) This Act is not intended to apply to employers of private domestic servants or farm and ranch labor, nor to employers who employ less than four employes in the same business, or in or about the same place of employment; provided, that any such employer may elect to accept the provisions of this Act in the manner herein provided.

Section 9. The term "employee" shall mean and include:

(a) Every person in the service of the State, or of any county, city, town, irrigation, drainage, or school district therein, or any public institution or administrative board thereof, under any appointment or contract of hire, express or implied, except an elective official of the State, or any county, city, town, irrigation, drainage, or school district therein, or of any public institution or administrative board thereof; except all officers and enlisted men of the National Guard of the State of Colorado. Policemen and firemen shall be deemed employes, within the meaning of this paragraph: Provided, that any policeman or fireman, or if killed, any dependent, claiming compensation under this Act shall have deducted from such compensation any sum which such policeman or fireman, or their dependent may receive from any pension or any benefit fund to which the municipality may contribute.

(b) Every person in the service of any other person, association of persons, firm, private corporation, including any public service corporation, personal representative, assignee, trustee, or receiver, under any contract of hire, express or implied, including aliens and also including minors, whether lawfully or unlawfully employed (who for the purpose of this Act shall be considered the same, and shall have the same power of contracting with respect to their employment, as adult employes), but not including any persons who are expressly excluded from this Act or whose employment is but casual and not in the usual course of trade, business, profession or occupation of his employer.

Section 10. The provisions of this Act shall not apply to common carriers engaged in interstate commerce nor to their employes.

LOANING SERVICES.

Section 11. Where an employer, who has accepted the provisions of this Act and has complied therewith, shall loan the service of any of his employes who have accepted the provisions of this Act, to any third person, he shall be liable for any compensation thereafter for any injuries or death of said employe as in this Act provided, unless it shall appear from the evidence in said case that said loaning constitutes a new contract of hire express or implied between the employe whose services were loaned and the person to whom he was loaned.

ABBROGATION OF DEFENSES.

Section 12. In an action to recover damages for a personal injury sustained by an employe on and after the first day of August, 1915, while engaged in the line of his duty as such, or for death resulting from personal injuries so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of the officer, agent or servant of the employer, it shall not be a defense:

(a) That the employe, either expressly or impliedly, assumed the risk of the hazard complained of as due to the employer's negligence.

(b) That the injury or death was caused, in whole or in part, by the want of ordinary care of a fellow servant.

(c) That the injury or death was caused, in whole or in part by the want of ordinary care of the injured employe where such want of care was not wilful.

Section 13. Any employer who has elected to and has complied with the provisions of this Act, including the provisions relating to insurance, shall not be subject to the provisions of Section 12 of this Act; nor shall such employer be subject to any other liability whatsoever for the death of or personal injury to any employe, except as in this Act provided; and all courses of action, actions at law, suits in equity, and proceedings whatever, and all statutory and common law rights and remedies for and on account of such death or personal injury to any such employe are hereby abolished except as in this Act provided.

Section 14. If an employer has elected to and has complied with the provisions of this Act, including the provisions thereof relating to insurance, and an action is brought against such employer to recover damages for personal injuries or death sustained by an employe who has elected not to come under this Act, then such employer shall have all the defenses to such an action which he would have had if this Act and that certain other Act entitled, "An Act Concerning Assumption of Risk," being Chapter 43, page 115, of the Session Laws of 1913, and an Act entitled, "To give a Right of Action against an Employer for Injuries or Death resulting to his Agents, Employes, or Servants, etc.," same being Chapter 113, page 294 of the Session Laws of 1911, and also an Act entitled, "To Relieve Employes and Workmen from Assuming the Risk of Injury or Death, etc.," same being Chapter 72, page 197, Session Laws of 1915 had not been enacted.

RIGHT TO COMPENSATION—EXCLUSIVE WHEN.

Section 15. The right to the compensation provided for in this Act, in lieu of any other liability whatsoever, to any and all persons whomsoever, for any personal injury accidentally sus-

tained or death resulting therefrom, on and after Aug. 1st, 1915, shall obtain in all cases where the following conditions occur:

(a) Where, at the time of the accident, both employer and employe are subject to the provisions of this Act; and where the employer has complied with the provisions thereof regarding insurance.

(b) Where, at the time of the accident, the employe is performing service arising out of and in the course of his employment.

(c) Where the injury or death is proximately caused by accident arising out of and in the course of his employment, and is not intentionally self-inflicted.

ELECTION AND ACCEPTANCE AND REJECTION.

Section 16. On and after August 1st, 1915, every employer of four or more employes, not including private domestic servants and farm and ranch laborers, engaged in a common employment, shall be conclusively presumed, when he becomes the employer of four or more persons to have accepted the provisions of this Act, unless prior to that date, such employer shall have filed with the Commission a notice in writing to the effect that he elects not to accept the provision of this Act; provided, however, that any employer commencing business subsequent to August 1st, 1915, or not having in his employ four or more employes on said date, may make his election not to become subject to the provisions of this Act at any time prior to becoming an employer of four or more employes, in a common employment, exclusive of private domestic servants, and farm and ranch laborers, by giving written notice as above provided. If such written notice is not given prior to said employer becoming the employer of four or more employes, said employer shall be conclusively presumed to have accepted the provisions of this Act, subject, however, to the right of withdrawal, as herein provided.

Section 17. Election on the part of any employer to be subject to this Act, including the employer of private domestic servants, farm and ranch laborers or of three or less employes, may be made by filing with the Commission a written statement to the effect that he accepts the provisions of this Act, the filing of which statement shall operate to subject such employer to the provisions of this Act for the term of one (1) year from the date of filing such statement, and thereafter, without further act on his part, for successive terms of one year each, unless such employer shall, at least sixty days prior to the expiration of such first or any succeeding year, file in the office of said Commission a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of this Act.

Section 18. Any employe may become subject to the provisions of this Act, and shall be deemed to have accepted, and shall be subject to the provisions thereof if at the time of the accident upon which liability is claimed,—

(a) His employer is subject to the provisions of this Act and has complied with the requirements thereof, including insurance; and if,

(b) Such employe shall not, at the time of entering into his contract of hire, expressed or implied with such employer, have given to his employer notice in writing that he elects not to be subject to the provisions of this Act.

Section 19. Such election and compliance with the provisions of this Act, including the provisions for insurance, shall be, and be construed to be, a surrender by the employer and the employe of their rights to any other method, form or amount of compensation or determination thereof, or to any cause of action, action at law, suit in equity or statutory or common law right or remedy or proceeding whatever for or on account of such personal injuries or death of such employe than as provided in this Act, and shall be an acceptance of all of the provisions of this Act, and shall bind the employe himself, and for compensation for his death, shall bind his personal representatives, his widow and next of kin, as well as the employer, and those conducting his business during bankruptcy or insolvency.

Section 20. Every employer, not electing to accept or rejecting the provisions of this Act, shall cause printed notices thereof to be kept posted in and about his place of employment in a conspicuous manner and in sufficient places frequented by his employes, as to reasonably notify such employes that he is not subject to the provisions of this Act, and shall likewise cause similar notice to be given of the filing of any change of such election on his part.

INSURANCE.

Section 21. Any employer electing to become subject to the provisions of this Act shall secure compensation for his employes in one of the following ways, which shall be deemed to be compliance with the insurance requirements of this Act:

(a) By insuring and keeping insured the payment of such compensation in the State Compensation Insurance Fund, or,

(b) By insuring and keeping insured the payment of such compensation with any stock or mutual corporation authorized to transact the business of Workmen's Compensation Insurance in this State. If insurance be so effected in such stock or mutual corporation, the employer or insurer shall forthwith file with the Commission, in form prescribed by it, a notice specifying the

name of the insured and the insurer, the business and place of business of the insured and the effective and termination dates of the policy, also, when requested, a copy of the contract or policy of insurance.

(c) By procuring a self-insurance permit from the Commission as hereinafter provided.

Provided, however, that the State itself, and each county, city, town, irrigation, drainage and school district therein and each public institution and each administrative board thereof shall, at all times, insure and keep insured the payment of such compensation in the State Compensation Insurance Fund.

Section 22. Every contract for the insurance of compensation herein provided for or against liability therefor, shall be deemed to be made subject to all the provisions of this Act, and all provisions in such contract for insurance, inconsistent with the provisions of this Act, shall be void. The Industrial Commission shall from time to time approve and prescribe a standard or universal form, as nearly as possible, for every contract or policy of insurance, endorsement, rider, letter, or other document affecting such contract, for use in insuring the compensation herein provided for.

Section 23. Every insurance carrier authorized to transact business in this State, which insures employers against liability for compensation, under the provisions of this Act, shall file with the Commission its classification of risks, and premiums relating thereto, and any subsequent proposed classification of risks and premiums together with all rates and any system or systems of rating, none of which shall take effect until approved by the Industrial Commission, and said Commission shall have the power to disapprove same as inadequate. The Commission may, at any time, withdraw its approval of any rate or system of rating.

Section 24. Every insurance carrier writing compensation insurance shall write said insurance at the rate or rates approved as adequate by the Industrial Commission, and the cutting of rates or rebating, or any other method whereby directly or indirectly any employer is given the benefit of, or obtains a rate lower than that approved by the Industrial Commission is hereby prohibited. Any insurance carrier or any employer or any officer, agent or employe of either, violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and may be punished by a fine of not more than \$500.00 or imprisonment for a period not longer than thirty days, or both such fine and imprisonment.

Section 25. Every contract insuring against liability for compensation or insurance policy evidencing the same, must contain a clause to the effect that the insurance carrier shall be di-

rectly and primarily liable to the employe, and in the event of his death, to his dependents, to pay compensation, if any, for which the employer is liable, thereby discharging to the extent of such payment the obligations of the employer to the employe; that, as between the employe and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this Act, be jurisdiction of the insurance carrier, and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer under the provisions of this Act.

Such policy must also provide that the employe shall have a first lien upon any amount which shall become owing to the employer from the insurance carrier, and the said insurance carrier may and shall pay the same directly to the said employe or his dependents, thereby discharging to the extent of such payment the obligation of the employer to the employe, and such policy shall not contain any provisions relieving the insurance carrier from payment when the employer becomes legally incapable, insolvent, or is discharged in bankruptcy, or otherwise, during the period that the policy is in operation or the compensation remains owing.

Section 26. If any insurance carrier intentionally, knowingly or wilfully violates any of the provisions of this Act, the Insurance Commissioner, on the request of the Industrial Commission, shall suspend or revoke the license or authority of such carrier to do a compensation business in this State.

Section 27. In any case where the employer is subject to the provisions of this Act by election or by nonrejection, and at the time of an injury has not complied with the insurance provisions of this Act, or has allowed his insurance to terminate or has not effected a renewal thereof, the employe, if injured or if killed, his dependents, if such employe has not rejected this Act as herein provided, may claim the compensation and benefits provided in this Act, and in any such case the amounts of compensation or benefits provided in this Act, shall be increased fifty per cent.

Section 28. Any insurance carrier operating under the terms and provisions of the Workmen's Compensation Act shall have the right to apply to the Industrial Commission for permission to examine any of the books, payrolls or other documents of any employer insured by such carrier, or of any contractor, subcontractor, lessee, sublessee, person or persons covered by the employer's compensation insurance to determine the amount of wage expenditure of such employer, or of any contractor, subcontractor, lessee, sublessee, person or persons during any period

that such employer, or contractor, subcontractor, lessee, sub-lessee, person or persons was insured by such insurance carrier and the Commission may grant such carrier authority in writing to make such investigation, or may appoint any of its agents, to conduct such investigation.

SELF-INSURANCE.

Section 29. The Commission in its discretion may grant to any employer who has accepted the provisions of this Act, permission to be its own insurance carrier for the payment of the compensation and benefits herein provided. Such permission may be granted by the Commission after the filing by such employer of such statement or statements and the giving of such information as may be required by the Commission. The Commission shall have the sole power to prescribe the rules, regulations, orders, terms and conditions upon which said permit shall be granted or continued. Such permission for self-insurance may be revoked at any time by the Commission and such employer shall upon notice of revocation immediately insure otherwise his liability.

NOTICES AND REPORTS.

Section 30. Every employer shall keep a record of all injuries, fatal or otherwise, received by his employes in the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury, a report thereof shall be made, in writing by the employer to the Commission, upon forms prescribed by the Commission for that purpose. Such report shall contain such information as shall be required by the Commission.

Section 31. Every employe who sustains an injury shall notify his employer of said injury within two days of its occurrence, unless said employe shall be physically or mentally unable to do so, or unless his employer or his foreman, superintendent, manager or other person in charge shall have actual notice of said injury. If said employe shall fail to report said injury he shall lose one day's compensation for each day's failure to so report; provided, however, that if anyone shall report the said accident for said injured employe within the time above specified, to his employer, then the injured employe shall be relieved from reporting the accident as provided above.

Section 32. Every employer shall furnish the Commission, upon request, all information required by it, to accomplish the purposes of this Act, which information shall be for the confidential use of said Commission unless otherwise ordered by it, and shall not be open to the public nor used in any court, or any action or proceeding pending therein, unless the Commission is a party to such action or proceeding.

Section 33. Every employer receiving from the Commission any blanks with directions to fill out the same or requests for information required for the purposes of this Act shall properly fill out said blanks and furnish said information so requested fully and correctly. The Commission may require that any information requested by it be verified under oath and may fix the time within which said information shall be returned to it.

GENERAL POWERS.

Section 34. The Commission, or any of its agents, may enter into any place of employment for the purpose of collecting facts and statistics, examining the provisions made for the health, protection and safety of the employes and bringing to the attention of every employer any rule, order or requirement of the Commission, or any law, or any failure on the part of any employer to comply therewith.

Section 35. All books, records and pay-rolls of employers, or of any contractor, subcontractor, lessee, sublessee, person or persons, showing or reflecting in any way upon the amount of wage expenditure of such employers, contractor, subcontractor, lessee, sublessee, person or persons, and all other facts, data and statistics appertaining to the purposes of this Act, shall always be open for inspection by the Commission, or any of its agents, for the purpose of ascertaining the correctness of the reported wage expenditure, number of men employed and such other information as may be necessary for the uses and purposes of the Commission in its administration of this Act.

Section 36. In case any person fails or refuses to comply with any order of the Commission or obey any subpoena issued by it or its agents or to furnish the statistics, data, and information required to be furnished to the Commission by the provisions of this Act or refuse to permit an inspection as provided in this Act, or being in attendance refuses to be sworn or examined or answer a question or produce a book or paper when ordered so to do by the Commission or any of its deputies, agents, or referees, the Commission may apply to the District Court upon proof by affidavit of the facts for an order returnable in not less than three days nor more than five days directing such person to show cause before the District Court which made the order, why he should not be committed to jail. Upon the return of such order the District Court shall examine under oath such person and give him an opportunity to be heard and if the Court determine that he has refused without legal excuse in any one of the foregoing matters, it may forthwith by warrant commit the offender to jail, there to remain until he submits to do the act which he was required to do or until he is discharged according to law.

Section 37. All expenses incurred by the Commission pursuant to the provisions of this Act shall be paid from funds appro-

appropriated for the use of the Commission upon claims therefor, itemized and sworn to, made by the person who incurred the same, which shall be allowed by the Commission subject to the approval of the State Auditing Board, provided that the traveling expenses of any member or members of the Commission or of any employe or employes thereof incurred while on business of the Commission outside the State of Colorado, shall be paid in the manner aforesaid, but only when such expenses are in advance authorized to be incurred by the Commission and by the State Auditing Board.

Section 38. All orders of the Commission shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise in an action brought for that purpose, pursuant to the provisions of this Act, or until altered or revoked by the Commission.

Section 39. A substantial compliance with the requirements of this Act, shall be sufficient to give effect to the orders or awards of the Commission and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

Section 40. For the purpose of making any investigation or conducting any hearing with regard to any matter or matters contemplated by the provisions of this Act, the Commission shall have power to appoint, by an order in writing, any competent person as an agent or referee whose duties shall be prescribed in such order.

(a) In the discharge of his duties such agent or referee shall have every power whatsoever for obtaining information granted in this Act to the Commission and all powers granted by law to officers authorized to take depositions are hereby granted to such agent.

(b) The Commission may conduct any number of such investigations contemporaneously through different agents or referees and may delegate to such agents the subpoenaing and swearing of witnesses, and the taking of all testimony bearing upon any investigation or hearing. The decision of the Commission shall be based upon its examination of all testimony and records. The recommendations made by such agents or referees shall not preclude any further investigation, or the taking of further testimony, if the Commission so order.

Section 41. The Commission shall have power to adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode, and manner of investigations and hearings, and to alter and amend said rules from time to time in its discretion; such rules and regulations, amendments and

alterations shall be effective ten days after same are adopted and posted. A copy of such rules and regulations shall be delivered to every person making application therefor, and to every insurance carrier doing business in this State by mailing a copy thereof to such insurance carrier at the address within this State as furnished the Commission by such insurance carrier.

Section 42. The Commission may employ and maintain in the department a compensation actuary who shall be experienced and skilled and fully competent to perform the duties of the position and who shall assist in or take charge of the practical operation of the State Compensation Insurance Fund under the general direction of the Commission. The Actuary shall receive such salary as may be agreed upon by the Commission.

Section 43. The Commission shall have power, to employ during their pleasure such deputies, experts, statisticians, accountants, actuaries, inspectors, clerks and other employes as they may deem necessary to carry out the provisions of this Act or to perform the duties and exercise the powers conferred by law upon the Commission. Such deputies, statisticians, accountants, inspectors, clerks and all other employes, except experts and actuaries in the employ of the Commission, shall have been for two years prior to such employment or appointment, bona fide residents of the State of Colorado, and each and all of them, except only the experts, shall, while in the employ of the Commission, devote their entire time to the service of the Commission.

Section 44. All deputies, statisticians, accountants, actuaries, clerks, experts, and all other employes of the Commission shall receive such compensation as may be fixed by law or by the Commission, and their salaries so fixed, as aforesaid shall be paid monthly from the funds appropriated for the use of the Commission, after being approved by the Commission.

Section 45. It shall be the duty of all officers and employes of the State, counties and municipalities, upon the request of the Commission to enforce in their respective departments, all lawful orders of the Commission in so far as the same may be applicable and consistent with the general duties of such officers and employes, and it shall also be their duty to make to the Commission such reports as it may require concerning matters within their knowledge appertaining to the purposes of this Act, and to furnish to it such facts, data, statistics and information as may from time to time come to them appertaining to the purposes of this Act, and the duties of the Commission thereunder, and particularly all information coming to their knowledge respecting the condition of all places of employment subject to the provisions of this Act, as regards the health, protection and safety of employes, and the hazard of risk of such places of employment.

Section 46. Such employes of the Commission as shall be directed by the Commission shall furnish surety company bonds in such sum as may be fixed by the Commission, the premiums therefor to be paid as other expenses of the Commission are paid.

EARNINGS.

Section 47. The average weekly wage of the injured employe shall be taken as the basis upon which to compute benefits and shall be determined as follows:

(a) Whenever the term "wages" is used it shall be construed to mean the money rate at which the services rendered are recompensed under the contract of hire in force at the time of the accident, either express or implied, and shall not include gratuities received from employers or others nor shall it include the amounts deducted by the employer under the contract of hire for material, supplies, tools and other things furnished and paid for by the employer and necessary for the performance of such contract by the employe, but the term "wages" shall include the reasonable value of board, rent, housing, lodging or any other similar advantages received from the employer, the reasonable value of which shall be fixed and determined from the facts by the Commission in each particular case.

(b) The total amount earned by the injured or killed employe in the six months preceding the accident shall be computed, which sum shall be divided by twenty-six and the result thus ascertained shall be considered as the average weekly wage of said injured or deceased employe, for the purpose of computing the benefits provided by this Act, except as hereinafter provided.

(c) Provided further, however, that in any case where the foregoing method of computing the average weekly wage of the employe by reason of the nature of the employment or the fact that the injured employe has not worked a sufficient length of time to enable his earnings to be fairly computed thereunder or has been ill or in business for himself or where for any other reason said methods will not fairly compute the average weekly wage, the Commission may in each particular case compute the average weekly wage of said employe by taking the daily earnings at the time of the accident or compute it in such other manner and by such other method as will in the opinion of the Commission, based upon the facts presented, fairly determine such employe's average weekly wage.

(d) Where an employe is a minor the average weekly wage of such minor shall be determined by this Commission on the basis of the earnings that such minor, if not disabled or killed, would probably have earned during the period for which compensation is granted.

Section 48. The fact that an employe has suffered a previous disability or received compensation therefor, shall not preclude compensation for a later injury or for death, but in determining compensation for the later injury or death his average weekly earnings shall be such sum as will reasonably represent his average weekly earning capacity at the time of the latter injury and shall be arrived at according to and subject to the limitations in the foregoing sections.

CONTRACTORS AND LESSEES.

Section 49. Any person, company or corporation operating or engaged in or conducting any business by leasing, or contracting out any part or all of the work thereof to any lessee, sublessee, contractor or subcontractor, shall irrespective of the number of employes engaged in such work, be construed to be and be an employer as defined in this Act and shall be liable as provided in this Act to pay compensation for injury or death resulting therefrom to said lessees, sublessees, contractors and subcontractors and their employes, and such employer as in this section defined shall, before commencing said work insure and shall keep insured his liability as herein provided and such lessee, sublessee, contractor or subcontractor, as well as any employe of such lessee, sublessee, contractor, or subcontractor, shall each and all of them be deemed employes as defined in this Act. Such employer shall be entitled to recover the cost of such insurance from said lessee, sublessee, contractor, or subcontractor, and may withhold and deduct the same from the contract price or any royalties or other money due, owing or to become due said lessee, sublessee, contractor, or subcontractor; provided, however, that if said lessee, or sublessee, contractor or subcontractor doing any work as in this Section provided shall himself be an employer as defined in this Act in the doing of such work and shall before commencing said work insure and shall keep insured his liability for compensation as herein provided then and in that case such person, company or corporation operating, engaged in, or conducting said business shall not be subject to the provisions of this Section.

Section 50. Every person, company or corporation, that owns any real property or improvements thereon and that contracts out any work done on and to said property to any contractor, subcontractor, person or persons, who shall hire or use four or more employes or workmen (including himself if working thereon) in the doing of such work, shall be deemed to be an employer under the terms of this Act and every such contractor and subcontractor, person or persons, as well as his or their employes shall each and all of them be deemed to be employes as defined in this Act and such employer shall be liable as provided in this Act to pay compensation for injury or death resulting therefrom to said contractor, and subcontractor and their

employes and shall before commencing said work insure and shall keep insured his liability as herein provided. Such employer shall be entitled to recover the cost of such insurance from said contractor, subcontractor, person or persons, and may withhold and deduct the same from the contract price or any royalties or other money due, owing or to become due said contractor, or subcontractor, person or persons; provided, however, that if said contractor, subcontractor, person or persons doing or undertaking to do any work for an owner of property as above provided shall himself be an employer as defined in this Act and shall before commencing said work insure and shall keep insured his liability for compensation as herein provided then and in that case said owner of said property shall not be subject to the provisions of this Section.

MEDICAL, SURGICAL AND HOSPITAL.

Section 51. Every employer regardless of his method of insurance shall furnish such medical, surgical, nursing and hospital treatment, medical, hospital and surgical supplies, crutches and apparatus, as may reasonably be needed at the time of the injury and thereafter during the disability, but not exceeding sixty days from the date of the accident and \$200 in value to cure and relieve from the effects of the injury; provided, however, that every employer subject to the terms and provisions of this Act must insure his liability for the medical, surgical and hospital expenses herein provided for, unless permission is given by the Industrial Commission to such employer to operate under a medical plan as hereinafter set forth.

Every plan which is in force at the time of the adoption of this Act, or which is hereafter agreed to between employer and employe, for the furnishing of medical, surgical and hospital treatment whether the employe is to pay any part of the expense of such treatment or not shall before being put into effect, receive the approval of the Industrial Commission, which shall have full power and authority to formulate the terms and conditions under which any such plan may operate and the essentials thereof, and it may at any time order modifications or changes in any said plan or withdraw its approval thereof; provided, however, that no plan shall be approved by the Commission which relieves the employer from the burden of assuming and paying for any part of the medical, surgical and hospital services and supplies hereinabove required.

The Commission shall have the power to establish a schedule fixing the fees for which all medical, surgical and hospital treatment rendered to employes under this Section shall be compensated.

DEPENDENCY.

Section 52. For the purpose of this Act the following described persons shall be conclusively presumed to be wholly dependent:

(a) Wife, unless it be shown that she was voluntarily separated and living apart from the husband at the time of his injury or death and was not dependent in whole or in part on him for support.

(b) Minor children of the deceased under the age of eighteen years. The term "minor child" shall include posthumous children or a child legally adopted prior to the injury.

Section 53. Children eighteen years of age or over, husband, mother, father, grandmother, grandfather, sister, or brother, who were wholly or partially supported by the deceased employe at the time of his death and for a reasonable period of time immediately prior thereto, shall be considered his actual dependents. If such dependents be a son eighteen years of age or over, a husband, father, grandfather, or brother to be entitled to compensation, they must prove that they were incapable of or actually disabled from earning their own living during the said time, provided, however, if said incapacity or disability is temporary only, compensation shall be paid only during the period of such temporary incapacity or disability.

Section 54. In case of death, the dependents of deceased entitled thereto, shall receive as compensation or death benefits 50% of the deceased employe's average weekly wages not to exceed a maximum of \$10.00 per week and not less than a minimum of \$5.00 per week, for a period not to exceed six years from the date of the death of the injured employe, less any sums paid to the employe prior to his death as compensation for his disability as in this Act provided.

Section 55. In the case of remarriage of the husband or wife of a deceased employe, without children, he or she shall receive, at the time of marriage, a lump sum settlement without commutation equal to one-half of the amount of compensation then remaining unpaid; provided however, that if such husband or wife has had a lump sum or lump sums granted to him or her during a six months period immediately preceding said remarriage, the lump sum settlement shall be determined by the following basis:

The Commission shall determine the amount of compensation which would have been unpaid at the date of remarriage under the terms of the award if a lump sum or lump sums had not been granted within said six months period. From one-half of said sum, the Commission shall then deduct the actual amount paid to such husband or wife on all lump sums granted during said six months period and the balance of said one-half, if any, shall

be paid to said husband or wife at the time of remarriage without commutation.

In case of remarriage of husband or wife of a deceased employe, who has a dependent child or children, the entire unpaid balance of compensation shall be paid such child or children.

Section 56. Partial dependents shall be entitled to receive only that portion of the benefits provided for those wholly dependent which the average amount of the wages regularly contributed by the deceased to such partial dependents at and for a reasonable time immediately prior to the injury bore to the total income of the dependents during the same time. The Commission shall have power and discretion to determine the proper elements to be considered as income of said dependents in each particular case. Where there are persons both wholly dependent and partially dependent, only those wholly dependent shall be entitled to compensation.

Section 57. The question as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident to the injured employe and the right to death benefit shall become fixed as of said date irrespective of any subsequent change in conditions and such death benefit shall be directly payable to the dependent or dependents entitled thereto or to their legal representatives.

Section 58. When the right to a death benefit shall become fixed it shall cease, lapse or terminate upon the happening of any of the following contingencies:

(a) Upon marriage, with the exception as to lump sum settlement, as herein provided.

(b) Upon the death of any dependent; provided, however, that in any case where the share of any dependent shall cease, lapse or terminate it shall survive to the remaining dependents.

(c) When a son of the deceased reaches the age of eighteen years, except as otherwise provided in Section 53 hereof.

Section 59. When as a proximate result of an accident death occurs to an injured employe, there shall be paid in one lump sum within thirty days after his death the sum of \$75.00 for his reasonable funeral and burial expenses. Said sum may be paid to the undertaker or to any other person who may have paid the undertaker, if the Commission so orders. If the employe leaves no dependents compensation shall be limited to said sum and the compensation, if any, which has accrued to date of death, and the medical, surgical and hospital expenses herein provided. If the deceased employe leaves dependents said sum shall be paid in addition to all other sums of compensation herein provided for.

Section 60. No dependent of an injured employe shall be deemed, during the life of the employe, a party in interest to any proceeding by him for the enforcement of any claim for compensation nor as respects any settlement thereof by said employe.

Section 61. Illegitimate minor children of deceased putative father shall be entitled to compensation in the same respect as a legitimate minor child of said decedent, when it is proved to the satisfaction of the Commission that the father has, during his lifetime, acknowledged said child or children to be his and has regularly contributed to its or their support and maintenance for a reasonable period of time prior to his death.

Section 62. In case death occurs more than two years after the date of the receiving of any injury such death shall be prima facie presumed not to be due to such injury.

Section 63. In case death proximately results from the injury within a period of two years, the benefits shall be in the amounts and to the persons following:

(a) If there be no dependents compensation shall be limited to the expenses provided for medical, hospital and funeral of deceased, together with such sums as may have accrued or been paid to deceased during his lifetime for disability.

(b) If there are wholly dependent persons at the time of death, the payment shall be 50% of the average weekly wages, subject to the limitations of this Act as to maximum and minimum weekly amount, and to continue for the remainder of the period from the date of the death and not to exceed six years after the date of the injury and not to amount to more than a maximum of \$3125.00, less the sums, if any, paid to deceased during his lifetime.

(c) If there are partly dependent persons at the time of the death, the payment shall be not to exceed 50% of the average weekly wages subject to the limitations of the minimum and maximum weekly amount and to continue for such portion of six years after the date of the injury as shall be required to pay, at the said weekly rate, the total amount awarded by the Commission to be paid to such partial dependent or partial dependents.

Section 64. If death occurs to an injured employe other than as a proximate result of accident before disability indemnity ceases, and the deceased leaves a person or persons wholly dependent upon him for support, death benefits shall be as follows:

(a) Where the accident proximately caused permanent total disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent total disability benefit which the employe would have received had he lived until he had received the sum of \$3125.00.

(b) Where the accident proximately caused permanent partial disability, the death benefit shall consist of the unpaid and unaccrued portion of the permanent partial disability benefit which the employe would have received had he lived.

Section 65. If death occurs to an injured employe other than as a proximate result of the accident before disability indemnity ceases, and the deceased leaves a person or persons partially dependent upon him for support, death benefits shall be as follows:

(a) Where the accident proximately caused permanent total disability, the death benefit shall consist of that proportion of the unpaid and unaccrued portion of the permanent total disability benefit which the employe would have received had he lived until he had received the sum of thirty-one hundred, twenty-five dollars, as the amount devoted by the deceased for the support of such person or persons for the year immediately prior to the accident bears to the total income of the person or persons during said year.

(b) Where the accident caused permanent partial disability the death benefit shall consist of that proportion of the unpaid and unaccrued portion of the permanent partial disability benefit which the employe would have received if he had lived, as the amount devoted by the deceased to the support of such person or persons for the year immediately prior to the accident bears to the total income of the person or persons during said year.

Section 66. Death benefits under the provisions of this Act to dependents who are nonresidents of the United States at the time of the death of the injured employe shall be one-third of the amount or amounts provided herein, provided that, in no event, shall death benefits to dependents who are nonresidents of the United States exceed the aggregate sum of \$1041.66.

Section 67. Death benefits shall be paid to such one or more of the dependents of the decedent for the benefit of all the dependents entitled to such compensation as may be determined by the Commission who may apportion the benefits among such dependents in such manner as it may deem just and equitable. Payment to a dependent subsequent in right may be made, if the Commission deems it proper, which payment shall operate to discharge all other claims therefor. The dependents or persons to whom benefits are paid shall apply the same to the use of the several beneficiaries thereof, according to their respective claims upon the decedent for support in compliance with the finding and direction of the Commission.

Section 68. In all cases of death where the dependents are one or more minor children, it shall be sufficient for the widow or a friend to make application and claim on behalf of said minor

children. The Commission, for the purpose of protecting the rights and interests of any dependent who it may deem incapable of fully protecting his or her own interests, may provide for the manner and method of safe-guarding the payments due such dependent or dependents in such manner as it may see fit.

Section 69. Payment of death benefits to one or more dependents shall protect and discharge to that extent all compensation under this Act, unless and until any other person claiming to be a dependent shall have given the Commission notice of his claim and until the Commission shall have notified the employer or his insurance carrier of such claim. In such case the Commission shall determine the respective rights of the said rival claimants, and thereafter such death benefits shall be paid to such dependents as it may find so entitled, under the provisions of this Act.

ACCIDENT BENEFITS.

Section 70. If the accident causes disability, a disability indemnity shall be payable as wages, upon the 18th day after the injured employe leaves work as the result of the injury and thereafter regularly but not less frequently than once in each calendar month, unless otherwise ordered by the Commission, subject, however, to the following limitations:

(a) If the period of disability does not last longer than ten days from the day the employe leaves work as the result of the injury, no disability indemnity whatever shall be recoverable except the disbursement in this Act provided for medical, surgical, nursing and hospital services, apparatus and supplies; nor in any case unless the Commission has actual knowledge of the injury or is notified thereof within the period specified in this Act.

(b) If the period of disability lasts longer than ten days from the day the injured employe leaves work as the result of the injury no disability indemnity shall be recoverable for the first ten days of disability.

Section 71. In case of temporary disability of more than ten days duration, the employe shall receive fifty per cent of this average weekly wages so long as such disability is total not to exceed a maximum of \$10.00 per week and not less than a minimum of \$5.00 per week unless the employe's wages shall be less than \$5.00 per week, in which event he shall receive compensation equal to his average weekly wages.

Section 72. In case of injury resulting in temporary partial disability, the employe shall receive 50 per cent of the impairment of his earning capacity during the continuance thereof, not to exceed the maximum sum of \$10.00 per week, or the aggregate sum of \$1300.00.

Section 73. In cases included in the following schedule the disability in each case shall be deemed to continue for the period specified and the compensation to be paid for such loss shall be as specified herein, to-wit:

The loss of one arm between elbow and shoulder.....	208 weeks
The loss of forearm between wrist and elbow.....	139 weeks
The loss of a hand	104 weeks
The loss of a palm, where thumb remains.....	70 weeks
The loss of a thumb and the metacarpal bone thereof..	50 weeks
The loss of a thumb at the proximal joint.....	35 weeks
The loss of a thumb the second or distal joint.....	18 weeks
The loss of an index finger and the metacarpal bone thereof	26 weeks
Loss of an index finger at the proximal joint	18 weeks
Loss of an index finger at the second joint.....	13 weeks
Loss of an index finger at the distal joint.....	9 weeks
Loss of a second finger and the metacarpal bone thereof	18 weeks
Loss of a middle finger at the proximal joint.....	13 weeks
Loss of the middle finger at the second joint.....	9 weeks
Loss of the middle finger at the distal joint.....	5 weeks
Loss of a third or ring finger and the metacarpal bone thereof	11 weeks
Loss of a ring finger at the proximal joint.....	7 weeks
Loss of a ring finger at the second joint.....	7 weeks
Loss of a ring finger at the distal joint.....	4 weeks
Loss of a little finger and the metacarpal bone thereof	13 weeks
Loss of a little finger at the proximal joint.....	9 weeks
Loss of a little finger at the second joint.....	9 weeks
Loss of a little finger at the distal joint.....	4 weeks
Loss of all the fingers of one hand where the thumb and palm remains.....	52 weeks
Loss of a leg at the hip joint or so near thereto as to preclude the use of an artificial limb.....	208 weeks
The loss of a leg at or above the knee, where the stump remains sufficient to permit the use of an artificial limb	139 weeks
The loss of a foot at the ankle.....	104 weeks
The loss of a great toe with the metatarsal bone thereof	26 weeks

The loss of a great toe at the proximal joint.....	18 weeks
The loss of a great toe at the second joint-----	9 weeks
The loss of any other toe with the metatarsal bone thereof	11 weeks
The loss of any other toe at the proximal joint.....	4 weeks
The loss of any other toe at the second or distal joint..	4 weeks
The loss of all the toes of one foot.....	35 weeks
The loss of an eye by enucleation (including disfigurement resulting therefrom)	139 weeks
Total blindness of one eye.....	104 weeks
Total deafness of both ears	139 weeks
Total deafness of one ear.....	35 weeks
Where workman prior to injury has suffered a total loss of hearing in one ear and as a result of the accident loses total hearing in remaining ear.....	139 weeks

(a) The periods of time specified in the foregoing schedule shall commence to run from the date of actual loss of any member or members.

(b) For the purpose of this schedule, permanent and complete paralysis of any member as the proximate result of accidental injury shall be deemed equivalent to the loss thereof.

(c) Whenever amputation is made between any two joints mentioned in this schedule (except amputation between the knee and hip-joint) the resulting loss shall be estimated as if the amputation had been made at the joint nearest thereto.

(d) The amounts specified in this Section are all subject to the limitations as to weekly maximum and minimum indemnity provided herein, for injuries causing temporary total disability.

(e) When by reason of infection or any other cause resulting from such injury, which is not due to the neglect or misconduct of the injured employe, he is actually disabled longer than the time specified in the foregoing schedule, compensation may be awarded by the Commission for the period of additional disability within the limits otherwise provided in this Act.

(f) When an injured employe sustains two injuries coming under this schedule, the disabilities specified herein shall be added and the injured employe shall receive the sum of the two.

(g) Where an injury causes the loss of use or partial loss of use of any member or members specified in the foregoing schedule, the Commission may determine the disability suffered and the amount of compensation to be awarded, by awarding compensation which shall bear such relation to the amount stated in the above schedule for the loss of a member or members as the

disabilities bear to the loss produced by the injuries named in the schedule, or the Commission may award compensation under the permanent partial disability Section of this Statute as the Commission in its discretion may determine from the particular facts in each case.

Section 74. When an accident causes injury to the teeth of an employe, he shall in addition to receiving compensation for disability and the medical, surgical and hospital services provided herein, be entitled with the prior approval and consent of the Commission to receive such dental treatment and services as may reasonably be necessary to repair and alleviate the effects of the injury, not to exceed \$100.00 in value.

Section 75. If any employe is seriously permanently disfigured about the head or face, the Commission may allow, in addition to all other compensation benefits provided herein, such sum for compensation on account thereof as it may deem just, not exceeding \$500.00.

Section 76. Where an employe has previously suffered the loss of one hand or one arm or one foot or one leg or the vision of one eye and as a result of an accident arising out of and in the course of his employment, he suffers the loss of another hand, arm, foot, leg, or the vision of an eye, he shall be compensated as follows:

If the employe has previously lost vision of one eye and loses the vision of the remaining eye, he shall receive compensation for 312 weeks.

If the employe previously lost the vision of one eye and loses a hand, arm, foot or leg, he shall be compensated by receiving the schedule number of weeks for the loss of such member plus fifty per cent.

If the employe has previously lost the right hand and loses the left hand or arm or vice versa, he shall receive the schedule number of weeks for the loss of such member, plus 50%.

If the employe has previously lost the right arm and loses the left hand or arm, or vice versa, he shall receive twice the number of scheduled weeks for the loss of such member.

If the employe has previously lost a hand or arm and loses one foot, or leg or the vision of one eye, he shall receive as compensation the scheduled number of weeks for the loss of such member or loss of vision, plus 50%.

If the employe has previously lost the right foot and loses the left leg or foot, or vice versa, he shall receive the scheduled number of weeks for the loss of such member, plus 25%.

If the employe has previously lost the right leg and loses the left leg or foot, or vice versa, he shall receive the scheduled number of weeks for the loss of such member, plus 50%.

If the employe has previously lost one leg or foot and loses one hand or arm or the vision of one eye, he shall receive compensation for the scheduled number of weeks for the loss of such member or loss of vision, plus 50%.

Compensation awarded in this section is subject to the maximum and minimum weekly amounts herein specified for accidents causing temporary total disability.

Section 77. In cases of permanent total disability, the award shall be fifty per cent of the average weekly wages of the injured employe and shall continue until death of such person so totally disabled but not in excess of the weekly maximum and not less than the weekly minimum indemnity specified herein for injuries causing temporary total disability.

The loss of both hands or both arms or both feet or both legs or both eyes or of any two thereof, shall prima facie constitute total and permanent disability to be compensated according to the provisions of this Section; provided however, that where the disability comes under this Section and where the employer or the Commission obtains suitable employment for such disabled person which he can perform and which in all cases shall be subject to the sole approval of the Commission, the disabilities set out in this paragraph shall not constitute total disability during the continuance of the Commission's approval of said employment but such partial disability as may be determined by the Commission after a finding of the facts.

Section 78. Where an accident causes injury resulting in permanent partial disability (except the sustaining of any one of the specific injuries set forth in the schedule herein), the injured employe shall be deemed to be permanently partially disabled from the time he is so declared by the Commission and from said time shall be entitled to compensation for permanent partial disability in addition to any compensation theretofore allowed. In determining permanent partial disability the Commission shall ascertain in terms of percentage the extent of general permanent disability which the accident has caused, taking into consideration not only the general physical condition but the mental training, ability, former employment, and education of the injured employe. The Commission shall then determine the injured employe's expectancy of life from recognized expectancy tables and such other evidence relating to his expectancy as may be presented; it shall then ascertain the total amount which said employe would receive during the balance of his expectancy if permanently totally disabled at not more than the maximum nor less than the minimum weekly indemnity specified in this Act for temporary total disability and shall then take that percentage of the total sum so arrived at as is indicated by the percentage of general permanent disability found to exist in the manner as hereinabove set forth, not to exceed in any event, however, the aggre-

gate sum of \$2600.00. Said sum to be paid at a weekly rate not more than the maximum nor less than the minimum herein specified for injuries causing total disability.

Section 79. Where an injured employe sustains a loss set forth in the schedule herein but in addition thereto receives other injuries which are sufficient in their nature to alone cause temporary total disability, said employe shall receive in addition to the amounts specified in said schedule, compensation for temporary total disability as long as said disability may be found to exist as a result of said other injuries.

Section 80. An employe in order to be entitled to compensation for hernia must clearly prove; first, that its appearance was accompanied by pain; second, that it was immediately preceded by some accidental strain suffered in the course of the employment. If an employe after establishing his right to compensation for hernia as above provided, elected to be operated upon, a special operating fee of not to exceed \$50.00 shall be paid by the employer, insurer, or Commission as the case may be. In case the employe elects not to be operated upon and the hernia becomes strangulated in the future the results from such strangulation will not be compensated.

Section 81. Whenever, in case of injury, the right to compensation under this Act would exist in favor of an employe, he shall upon the written request of his employer, or the insurer carrying such risk, submit himself from time to time, to examination by a physician or surgeon, who shall be provided and paid for by the employer, or insurer and shall likewise submit to examination from time to time by any regular physician selected and paid for by said Commission, or a member or examiner thereof. The employe shall be entitled to have a physician provided and paid for by himself present at any such examination. So long as the employe, after such written request of the employer or insurer, shall refuse to submit himself to such examination, or shall in any way obstruct the same, his right to collect or to begin or to maintain any proceeding for the collection of compensation shall be suspended; and if he shall refuse to submit to such examination, after direction by the Commission, or any member or examiner thereof, or shall, in any way obstruct the same, his right to weekly indemnity which shall accrue and become payable during the period of such refusal or obstruction, shall be barred. If any employe shall persist in any unsanitary or injurious practice which tends to imperil or retard his recovery or shall refuse to submit to such medical or surgical treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such injured employe. Any physician who shall make, or be present at any such examination, may be required to testify as to the results thereof. Any physician having attended an employe in a profes-

sional capacity may be required to testify before the Commission when it shall so direct. A physician will not be required, however, to disclose confidential communications imparted to him for the purpose of treatment and which are unnecessary to a proper understanding of the case. In all cases of injury, the employer or insurer, as the case may be, shall have the right in the first instance to select the physician who shall attend said injured employe, provided however, that if the services of a physician are not tendered at the time of injury, the employe shall have the right to select his own physician and may upon the proper showing to the Commission procure its permission at any time to have a physician of his own selection attend him, and in any nonsurgical case the employe with such permission in lieu of medical aid, may procure any nonmedical treatment recognized by the laws of this State as legal, the practitioner administering such treatment to receive such fees therefor under the medical provisions of this Act as may be fixed by the Commission.

GENERAL PROVISIONS.

Section 82. At any time after six months have elapsed from the date of the injury, the Commission may in the exercise of its discretion, after five days prior notice to the parties, order payment of all or any part of the compensation awarded in a lump sum, or in such manner as it may determine to be for the best interests of the parties concerned, and its discretion so exercised shall be final and not subject to review. When payment in a lump sum is ordered the Commission shall fix the amount to be paid based on the present worth of partial payments considering interest at 4% per annum, and less deductions for the contingencies of death and remarriage.

The aggregate of all lump sums granted to a claimant who has been found and declared by the Commission to be permanently and totally disabled shall not exceed \$3125.00.

Section 83. The compensation provided for herein shall be reduced fifty per cent :

(a) Where injury is caused by the wilful failure of the employe to use safety devices provided by the employer.

(b) Where injury results from the employe's wilful failure to obey any reasonable rule adopted by the employer for the safety of the employe.

(c) Where injury results from the intoxication of the employe.

Section 84. No claim to recover compensation under this Act shall be maintained unless notice in writing in form as prescribed by the Commission, and making claim for compensation with respect to the injury and signed by the injured person or by

someone in his behalf or in case of death, by a dependent or someone in his behalf, shall be served upon the Commission either by delivering to, and leaving with it, a copy of such notice or by mailing to it by registered mail a copy thereof in a sealed and postpaid envelope addressed to its office in State Capitol Building, Denver, Colo., provided, however, that if no payment of compensation has been made, other than medical, funeral, surgical, nursing, dental and hospital services, crutches, apparatus and supplies, such notice or claim must be filed within one year from the date of the accident or if death result therefrom, within one year after such death, or the right to compensation therefor shall be wholly barred; and further, that any disability beginning more than five years from the date of the accident shall be conclusively presumed not to be due to such accident. The claim provided for in this Section may be filed by anyone, including the Commission or any of its agents, on behalf of such injured employe or on behalf of dependents in case of his death, and shall be considered as having been filed by said injured person or in case of death by his dependents if subsequently ratified, such ratification to be in writing filed with the Commission within two years from the date of accident or from date of death if death results therefrom.

Section 85. The limitation of time provided for in this Act as against any person who is mentally incompetent or a minor dependent shall be eighteen months instead of one year.

Section 86. Claims for compensation or benefits due under this Act shall not be assigned, released or commuted except as provided in this Act, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy or recovery or collection of a debt, which exemption may not be waived.

The power given in any power of attorney or other authority from any injured employe or the dependents of any killed employe, purporting to authorize any other person to receive, be paid or receipt for any compensation benefits awarded any such claimant shall be wholly void, illegal and of no force and effect.

Section 87. If an employe entitled to compensation under this Act be injured or killed by the negligence or wrong of another not in the same employ, such injured employe, or in case of death, his dependents, shall before filing any claim under this Act, elect in writing whether to take compensation under this Act or to pursue his remedy against such other. Such elections shall be evidenced in such manner as the Commission may by rule or regulation prescribe. If such injured employe, or in case of death, his dependents, elect to take compensation under this Act, the awarding of compensation shall operate as and be an assignment of the cause of action against such other to the Industrial Commission of Colorado if compensation be payable from the

State Compensation Insurance Fund, and otherwise to the person, association, corporation, or insurance carrier liable for the payment of such compensation; however, said insurance carrier shall not be entitled to recover any sum in excess of the amount of compensation for which said carrier is liable under this Act to the injured employe, but to that extent said carrier shall be subrogated to the rights of the injured employe against said third party causing the injury; if the injured employe elects to proceed against such other, the State Compensation Insurance Fund, person, association, corporation or insurance carrier, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided by this Act in such case. Such a cause of action assigned to the Commission may be prosecuted or compromised by it. A compromise of any such cause of action by the employe or his dependents at an amount less than the compensation provided for by this Act shall be made only with the written approval of the Commission, if the deficiency of compensation would be payable from the State Compensation Insurance Fund, and otherwise with the written approval of the person, association, corporation, or insurance carrier, liable to pay the same. Whenever an employe is killed by the negligence or wrong of another not in the same employ and the dependents of such employe entitled to compensation under this Act are minors, such election to take compensation and the assignment of the cause of action against such other and such notice of election to pursue a remedy against such other shall be made by such minor, or shall be made on his behalf by a parent of such minor, or by his next friend or duly appointed guardian, as the Commission may determine by rule in each case.

Section 88. The right of compensation granted by this Act and any awards made thereunder shall have the same preference or lien without limit of amount against the assets of employer or insurer or both as is now or hereafter may be allowed by law for a claim for unpaid wages for labor.

Section 89. Any employer subject to the terms and provisions of this Act who fails to insure or to keep the insurance required by this Act in force or who allows the same to lapse or fails to effect a renewal thereof, shall not continue any of his business operations while such default in effective insurance continues. The Commission in its own name as party plaintiff may institute the proper action to enjoin any such employer from continuing his business operations during any such default.

Section 90. Unless previously authorized by the Commission, no lien shall be allowed nor any contract be enforceable for any attorney's fees, contingent or otherwise for services rendered for the enforcement or collection of any claim for compensation or other proceedings under the Workmen's Compensation Act, and then only as provided by rules of the Commission.

Section 91. The Commission may, in its discretion, at any time, any provisions in this Act to the contrary notwithstanding, by unanimous consent of all the members thereof, and with the approval of a majority of the State Auditing Board, compute and require to be paid to it to be held by it in trust, an amount equal to the present value of all unpaid compensation or other benefits in any case, computed at the rate of 4% per annum. Such action may be taken after a finding by the Commission as to the insolvency, threatened insolvency, or any other condition or danger which may cause the loss of, or which has delayed or may impede, hinder or delay prompt payment of compensation or benefits by any insurance carrier or employer. The action and finding of the Commission shall not be subject to review nor shall the Commission be required to give any notice of hearing or hold any hearing prior to taking such action or making its finding as aforesaid. The order of the Commission requiring said payment shall be valid, effective and in force from and after the approval thereof by the State Auditing Board.

All moneys so paid in shall constitute a separate trust fund, and after any such payment is so ordered the employer or insurance carrier shall thereupon be discharged from any further liability under such award, for which payment is made, to the extent of the payment made, and the payment of the award shall then be assumed to the extent of payment made by the special trust fund so created.

If, for any reason, a beneficiary's right to the compensation awarded and ordered paid into said special trust fund, ceases, lapses, or in any manner terminates by virtue of the terms and provisions of this Act so that a surplus not surviving or accruing to any other beneficiary, remains in said trust fund of the amount ordered paid into it on behalf of the beneficiary, the insurance carrier or employer who has made said payment shall be entitled to a refund of the present value of said surplus, if any, computed at the rate of four per cent per annum. Any portion of the special trust fund may, pursuant to resolution of the Commission, be invested in any securities of the State of Colorado or of the United States of America.

PROCEDURE.

Section 92. Any dispute or controversy concerning compensation under this Act shall be submitted to the Commission in the manner and with the effect as provided herein.

Section 93. If the insured employe or his dependents and the employer or his insurer reach an agreement in regard to compensation under this Act the agreement shall be filed with the Commission and after approval by it shall be enforceable as are all the awards of the Commission. All such agreements shall be subject to the approval of the Commission, shall be upon and

in form as prescribed by it, and approval shall be given only when the terms thereof conform to the provisions of this Act and the rules and regulations of the Commission. Such approval of the Commission shall be evidenced by the signature of its Chairman thereon.

Section 94. Hearings upon claims arising under this Act shall be held by the Commission upon its own motion or upon the motion of any party interested therein. The Commission shall cause reasonable notice of such hearing, embracing a general statement of such claim to be given to each party interested, by service of such notice on him personally, or by mailing a copy thereof to him at his last known post office address, at least ten days before such hearing. Such hearings may be adjourned from time to time in the discretion of the Commission and may be held at such place or places as the Commission shall designate. Either party shall have the right to be present at any hearing in person or by attorney or by any other agent, and to present such testimony as may be pertinent to the controversy before the Commission and shall have the right of cross-examination; provided, however, that the Commission may with summary notice to either party cause testimony to be taken or an examination to be made of the person of the injured employe, or with or without notice an inspection of the premises where the injury occurred to be had, or the time books and payroll of the employer to be examined; the testimony so taken and the results of any such inspection or examination shall be reported to the Commission for its consideration upon final hearing and determination of the cause. All ex parte testimony taken by the Commission shall be reduced to writing and either party shall have an opportunity to examine and rebut the same on final hearing, by cross-examination or otherwise.

Section 95. All hearings arising under this Act may be held before the Commission or any two Commissioners or before any referee or referees appointed by the Commissioner. Such hearings may also be held by any Commissioner as referee when he has been especially appointed by the Commission to hold any such hearing.

Section 96. The Commission shall have the power and authority to appoint one or more referees to hold any of the hearings provided for in this Act. Such referee or referees shall have full power and authority to call, preside at, and conduct such hearings, as the said Commissioner would have. After the close of any such hearing the referee shall make his findings of fact as to the issues involved in said hearing and his determination and award, which said finding and award so made shall be taken as a part of the record in said cause, and shall be considered as the final finding and award of the Industrial Commission in said cause unless a review thereof is prayed for in the manner and within the time as herein provided.

Section 97. Any party in interest to any proceeding who is dissatisfied with the finding and award entered by any referee or referees of said Commission may petition the Industrial Commission as a Commission to review the finding and award of such referee or referees and the entire record in said cause, or the Commission on its own motion upon five days' notice to the parties may review any case, and the Commission in its discretion, may grant an oral hearing. Such petition shall be in writing and shall specify in detail the particular errors complained of in the finding and award and in the conduct and hearing of such cause. Such petition must be filed within ten days after the rendition of any finding or award by the referee unless further time is granted by the referee or the Commission within said ten days, and, unless so filed, the finding and award of the referee shall be considered as the final finding and award of the Commission in said cause. All parties in interest shall be given due notice of the rendition of any finding or award by the referee, and said period of ten days shall begin to run only after such notice, and the mailing of a copy of said finding or award addressed to the last known address of any party in interest shall be completed notice. Upon the filing of any such petition the Commission shall review the entire record of proceedings in said cause and in its discretion may take or order the taking of additional testimony and shall either affirm the finding and award of the referee or may enter a new finding and award, affirming or reversing the finding or award of the referee in whole or in part.

Section 98. No action, proceeding or suit to set aside, vacate or amend any finding, order or award of the Commission, or referee, or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have first applied to the Commission for a review as herein provided. Such action, proceeding or suit must be commenced within twenty days after the final finding, order or award entered by the Commission upon such review.

Section 99. Any person in interest being dissatisfied with any such finding, order or award of the Commission issued or promulgated by virtue of the authority conferred in this Act, may commence an action in the District Court in and for the county wherein the injury was sustained or in the District Court in and for the City and County of Denver against the Commission as defendant to modify or vacate the same on the grounds herein specified in which action any adverse party shall also be made a defendant.

Section 100. All such actions shall have precedence over any civil cause of a different nature pending in such Court, and the District Court shall always be deemed open for the trial thereof, and the same shall be tried and determined by the District Court in manner as provided for other civil actions.

Section 101. In such action, a copy of the complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. The Commission shall file its answer within twenty days after the service of the complaint. With its answer, the Commission shall make return to said Court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and a certified copy of its order, finding and award. Such return of the Commission when filed in the office of the Clerk of the District Court shall constitute the judgment roll in such action; and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such Court in such action. Such action may be thereupon brought on for hearing before said Court on such record by either party upon notice and in the manner as provided in said Court in other civil actions, subject, however, to the provisions of law for a change of place of trial or the calling in of another judge.

Section 102. If upon trial of such action it shall appear that all issues arising in such action have not theretofore been presented to the Commission in the petition filed as provided in this Act, or that the Commission has not theretofore had an ample opportunity to hear and determine any issues raised in such action, or has for any reason, not in fact heard and determined the issues raised, the Court shall, before proceeding to render judgment, unless the parties to such action stipulate to the contrary, transmit to the Commission a full statement of such issue or issues not adequately considered, and shall stay further proceedings in such action until such issues are heard by the Commission and returned to said Court.

Upon receipt of such statement, the Commission shall hear and consider the issues not theretofore heard and considered, and may alter, affirm, modify, amend or rescind its finding, order or award complained of in said action, and it shall report its action thereon to said Court within a reasonable time after its receipt of the statement from the Court.

The Court shall thereupon order such amendment or other proceeding as may be necessary to raise the issues as presented by such modification of the finding, order or award as may have been made by the Commission upon the hearing, if any such modification has in fact been made, and shall thereupon proceed with the trial of such action.

Section 103. Upon such hearing, the Court may affirm or set aside such order or award; but only upon the following grounds:

- (a) That the Commission acted without or in excess of its powers;
- (b) That the finding, order or award was procured by fraud;

(c) That the findings of fact by the Commission do not support the order or award.

Section 104. Any action commenced in court under this Section to set aside or modify any order or award of the Commission shall be brought to trial within thirty days after issue shall be joined, unless continued on order of the Court for good cause shown. No continuance shall be for longer than thirty days at one time.

Section 105. Trial shall be to the Court without a jury and upon the record of the Commission returned to said Court. Upon the trial of any such action the Court shall disregard any irregularity or error of the Commission unless it be made affirmatively to appear that the party complaining was damaged thereby.

Section 106. The record in any case shall be transmitted to the Commission within twenty days after the order or judgment of the Court, unless, in the meantime, a writ of error addressed to the District Court shall be obtained from the Supreme Court, for the review of such order or judgment.

Section 107. Upon setting aside of any order or award, the Court may recommit the controversy and remand the record in the case to the Commission for further hearing or proceedings; or it may order said Commission to enter the proper award upon the findings, as the nature of the case shall demand; provided, however, that in no event shall such order for award be for a greater amount of compensation than allowed by this Act, or in any manner conflict with the provisions thereof.

Section 108. The Commission or any party who may consider himself aggrieved by a judgment entered upon the review of any such order or award, may have questions of law only reviewed summarily by the Supreme Court, by writ of error, as provided by law, and said cause shall be advanced upon the calendar of the Supreme Court, and a final decision rendered within sixty days from date of issuance of the writ. It shall not be necessary for said Commission or any party aggrieved by said action to execute, serve or file any undertaking in order to obtain such a writ of error.

Section 109. No fee shall be charged by the clerk of any court for the performance of any official service required by this Act. On proceedings to review any order, or award, costs as between the parties shall be allowed, or not in the discretion of the court, but no costs shall be taxed against said Commission. In any action for the review of any order or award, and upon any review thereof by the Supreme Court, it shall be the duty of the District Attorney of the county wherein said action is pending, or of the Attorney General, if requested by the Com-

mission, to appear on behalf of the Commission, whether any other party defendant should have appeared or be represented in the action or not.

Section 110. Upon its own motion on the ground of error, mistake or a change in conditions, the Commission may at any time after notice of hearing to the parties interested, review any award and on such review, may make an award ending, diminishing, maintaining or increasing the compensation previously awarded, subject to the maximum and minimums provided in this Act and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid.

Section 111. The Commission, or any agent, deputy or referee designated by it shall have power and authority to issue subpoenas, to compel the attendance of witnesses or parties, and the production of books, papers or records and to administer oaths. Any person who serves a subpoena shall receive the same fee as the sheriff. Each witness who is subpoenaed on behalf of the Commission, and who appears in obedience thereto shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the District Court, which shall be audited and paid from the State Treasury in the same manner as other expenses are audited and paid, upon the presentation of proper voucher approved by the Commission.

The Commission may, in its discretion, assess the cost of attendance and mileage of witnesses subpoenaed by either party to any proceeding, against the other party to such proceeding, when in its judgment, the necessity of subpoenaing such witness arises out of the raising of any incompetent, irrelevant or sham issues by such other party.

Section 112. Any person who shall wilfully fail or neglect to appear and testify or to produce books, papers or records, as required by such subpoena duly served upon him, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned in the county jail not longer than thirty days for each such offense or both such fine and imprisonment. Each day such person shall so refuse or neglect shall constitute a separate offense.

Section 113. The District Court of the county wherein such person resides, or District Court of the City and County of Denver, upon application of the Commission or its agent, shall issue an order compelling the attendance and testimony of witnesses and the production of books, papers or records before such Commission or any such agent.

Section 114. The Commission or any party may, in any investigation or hearing, cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in district courts. All such depositions shall be taken upon commission issued by the Commission and shall be taken in accordance with the laws and rules of court covering depositions in civil cases in the District Courts of this State.

Section 115. A full and complete record shall be kept of all proceedings had before the Commission on any hearing and all testimony shall be taken down and transcribed by a stenographer appointed by the Commission.

Section 116. A transcribed copy of the evidence and proceedings, or any specific part thereof, of any investigation or hearing taken by a stenographer appointed by the Commission, being certified by such stenographer to be a true and correct transcript of the testimony on the investigation or hearing of a particular witness, or of a specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation or hearing so purporting to be taken and subscribed, may be received as evidence by the Commission and by any court with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand to any party upon the payment of ten cents per folio. Fees received from the sale of transcripts shall be applicable to the expenses of the Commission in addition to all sums which may be appropriated for its use.

Section 117. If any employer or insurer, or any officer or agent or either, or any employe; or any other person shall violate any provision of this Act, or shall do any act prohibited thereby, or shall fail or refuse to perform any duty lawfully enjoined, within the time prescribed by the Commission, for which no penalty has been specifically provided, or shall fail, neglect, or refuse to obey any lawful order made by the Commission, or any judgment or decree made by any court as provided by this Act, for each such violation, failure or refusal, such employer or insurer, or any officer or agent or either, or any employe or any person shall be punished by a penalty of not more than one hundred dollars for each such offense.

Section 118. Every day during which any employer or insurer or officer or agent of either or any employe, or any other person shall fail to comply with any lawful order of the Commission or shall fail to perform any duty imposed by this Act, shall constitute a separate and distinct violation thereof; provided, however, that in any action which may be brought to enforce the same, or to enforce any penalty provided for in this

Act, such violations shall be considered cumulative, and may be joined in such action.

Section 119. All penalties provided for in this Act, except fines in cases of misdemeanor, shall be collected in a civil action brought against the employer, or insurer or any officer or agent of either, or any employe or any other person as the case may be, in the name of and by the Commission, and all such penalties, when collected, shall be applicable to the expense of the Commission, in addition to all sums which may be appropriated for its use.

Section 120. Upon the request of the Commission, the Attorney General or the District Attorney of any district, or any attorney at law in the regular employ of the Commission, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this Act or award or order of the Commission or for the recovery of any money due the State Compensation Insurance Fund, or any penalty herein provided and shall defend in like manner all suits, actions or proceedings brought against the Commission or any member thereof in his official capacity.

Section 121. If, for the purpose of obtaining any order, benefit, award or compensation or payment under the provisions of this Act, either for himself or for any other person, anyone wilfully makes under oath a false statement or representation, he shall be guilty of perjury and punished accordingly, and he shall forfeit all right to compensation under this Act upon conviction of such offense.

STATE COMPENSATION INSURANCE FUND.

Section 122. There is hereby established a fund, to be known as the State Compensation Insurance Fund, for the benefit of injured and the dependents of killed employes, which shall be administered in accordance with the following provisions, without liability on the part of the State, beyond the amount of said Fund, constituted as provided in this Act.

Section 123. The Commission is hereby vested with full power, authority and jurisdiction over the State Compensation Insurance Fund and may do and perform any and all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of any power, authority or jurisdiction over said Fund in the administration thereof under the provisions of this Act, as fully and completely as the governing body of a private insurance company might or could do, subject however, to all the provisions of this Act.

Section 124. The Commission shall have full power and authority and it shall be its duty, to fix and determine the rates

to be charged by the State Compensation Insurance Fund for compensation insurance, and to manage and conduct all business and affairs in relation thereto, all of which business and affairs shall be conducted in the name of the Commission, and in that name, without any other name or title, the Commission may:

(a) Sue and be sued in all the courts of the State and in actions arising out of any act, deed, matter or thing made, omitted, entered into, done or suffered in connection with the State Compensation Insurance Fund, the administration, management or conduct of the business or affairs relating thereto.

(b) Make and enter into contracts of insurance with employers as herein provided, and such other contracts or obligations relating to the State Compensation Insurance Fund as are authorized or permitted under the provisions of this Act, but the Commission shall not, nor shall any officer or employe thereof be personally liable in his private capacity for or on account of any act done or omitted or contract or other obligation entered into or undertaken in an official capacity, in good faith and without intent to defraud in connection with the administration, management or conduct of the State Compensation Insurance Fund, its business or other affairs relating thereto.

(c) Contract with physicians, surgeons and hospitals for medical and surgical treatment, services and supplies, crutches and apparatus, and the care and nursing of injured persons entitled to benefits from said Fund, and may contract for medical, surgical, hospital and nursing services and supplies in excess of the amount and period otherwise limited herein, whenever said Commission may determine that the contracting of such extra medical, surgical, hospital and nursing services and supplies might tend to reduce the period of disability for which said Fund would be liable for the payment and compensation.

Section 125. The State Compensation Insurance Fund shall be a continuing fund and shall consist of all premiums received and paid into said Fund for compensation insurance, all property and securities acquired by and through the use of moneys belonging to said Fund and all interest earned upon moneys belonging to said Fund and deposited or invested as herein provided. Said Fund shall be applicable to the payment of losses sustained on account of compensation and benefit insurance in accordance with the provisions of this Act.

Section 126. The Commission shall from time to time classify the places of employment of employers insured in the State Compensation Insurance Fund into classes in accordance with the nature of the business in which they are engaged and the probable hazard of risk of injury to their employes. It shall determine the amount of the premiums which such employ-

ers shall pay to said State Compensation Insurance Fund, and may prescribe in what manner such premiums shall be paid, and may change the amount thereof both in respect to any or all of such employers from time to time, as circumstances may require, and the condition of their respective plants, establishments or places of work in respect to the safety of their employes may justify, but all such premiums shall be levied on a basis that shall be fair, equitable and just as among such employers.

Section 127. It shall also be its duty to divide each of such classes under said classification into as many subclasses as may be necessary, upon such terms and conditions as will enable it to determine the risks and fix the rates of premium of the different employers in the same class of employment, with respect to the conditions of said places of employment as regards the several requirements upon which the rates of premium of risks are based and determined, as provided in this Act.

Section 128. It shall be the duty of the Commission in the exercise of the powers and discretion conferred upon it by this Act, ultimately to fix and maintain for each class and subclass of occupation, the lowest possible rates of premium consistent with the maintenance of a solvent State Compensation Insurance Fund, and the creation and maintenance of a reasonable surplus after the payment of legitimate claims for injury and death, that may be authorized to be paid from the State Compensation Insurance Fund for the benefit of injured and dependents of killed employes.

Section 129. Such rates shall take no account of the extent to which the employes in any particular establishment have or have not persons dependent upon them for support; nor of whether such employes have dependents who are non-residents of the United States; nor of whether such employes are married or single; nor the age of any such employes. The rates so made shall be that percentage of the payroll of any employer, which, on the average, shall produce a sufficient sum—

(a) To carry all claims to maturity; that is to say, the rates shall be based upon the "reserve" and not upon the "assessment" plan;

(b) To produce a reasonable surplus as provided in this Act and, to cover the catastrophe hazard, and to insure the payment to employes and their dependents of the compensation herein provided.

(c) In determining the amount of reserve to be laid aside to meet deferred payments according to awards, such reserve shall be ascertained by finding the present worth of such deferred payments calculated at a rate of interest not higher than four per cent per annum and such calculations shall be made

according to a table of mortality not lower than the American Experience Table of Mortality and, in the discretion of the Commission, by such other and further methods as will result in the establishment of adequate reserves.

Section 130. The Commission shall keep an accurate account of the money paid in premiums by each of the several classes and subclasses of occupations or industries, and the disbursements on account of injuries and death of employes thereof; and it shall also keep an account of the money received from each individual employer and the amount disbursed from the State Compensation Insurance Fund on account of injuries and death of the employes of such employer; provided, that the State Compensation Insurance Fund, including such portions of said Fund as may be derived from premiums paid by the State, and its political sub-divisions, shall be one fund, indivisible.

It is the intention that the amounts raised for such State Compensation Insurance Fund shall ultimately become neither more nor less than to make said Fund self-supporting, and the premiums or rates levied for such purpose shall be subject to readjustment from time to time by the Commission, as may become necessary.

Section 131. The Commission shall set aside such proportion as it may deem necessary, of the earned premiums paid into the State Compensation Insurance Fund, as a contribution to the surplus of the Fund; provided that until the surplus of the Fund shall amount to the sum of Five Hundred Thousand (\$500,000) Dollars, at least ten per cent of the earned premiums paid into the State Compensation Insurance Fund shall be so set aside.

Section 132. The Commission may, in its discretion, amend at any time the rate or rates for any class or classes, subclass or subclasses; provided further, that no contract of insurance between the State Compensation Insurance Fund and any employer shall be in effect until a policy or binder has been actually issued by the Commission and the premium therefor paid as and when required by this Act and provided further, that after the inspection of the premises of any employer, or after considering the experience of such employer, the Commission may quote with respect to his risk a rate higher or lower than that indicated by its manual as applicable to his risk. Twice a year the Commission shall tabulate the earned premiums paid by policy holders of the State Compensation Insurance Fund, by classes and subclasses, and shall also tabulate the losses incurred by the Fund by classes and subclasses. Should the experience of the Fund show a balance to the credit of the policy holders of any class or subclass after the above mentioned amounts have been credited to the surplus fund, and after payment of all amounts which

have fallen due because of injury or death and after setting aside proper reserves, then the Commission shall distribute such credit balance to the policy holders of such classes as have a balance to their credit in proportion to the premium paid by each such policy holder during the preceding insurance period and in proportion to the credit balance earned by the class or subclass as a credit upon the premium or premiums next due from him provided, however, that in the event any such policy holder fails to renew his policy in the State Compensation Insurance Fund for the six-months period following the period in which said dividends were earned, he shall not be entitled to said credit dividend, and provided further, that in the event an employer actually discontinues business, his policy shall be canceled and the dividend if any, when ascertained, returned to him.

Section 133. If any employer shall be in arrears for more than twenty days in any payment required to be made by him to the State Compensation Insurance Fund as provided in this Act, he shall by virtue of such arrearage be in default of such payment and any policy issued to him by said Fund shall thereupon be canceled without notice as of the effective or renewal date of said policy. In the event cancelation of policy is made as herein provided and the State Compensation Insurance Fund is required to make any expenditures for the benefits provided by this Act for any accident causing injury or death within said twenty-day period, said Fund shall be entitled to reimbursement from the employer for all amounts so paid which may be collected by said Fund in a civil action brought against the employer, provided however, that the employer shall be primarily liable to any injured employe or the dependents of a killed employe for the payment of the compensation and benefits provided by this Act during said twenty-day period.

Section 134. In the event the amount of premium collected by the Fund from any employer at the beginning of any period of six months as ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium payments as a basis, shall differ from the earned premium based upon the actual wage expenditure for such six months period, an adjustment of the amount of such premium shall be made at the end of such six months period and the actual amount of such premium shall be determined in accordance with the amount of actual expenditure of wages for such period; and, in the event such actual wage expenditure for such period is less than the amount on which such estimated premium was collected, then such employer shall be entitled to have the amount of the difference in premium repaid to him or credited on succeeding premium payments, and should the earned premium, where ascertained as aforesaid, exceed in amount the premium so paid by such employer at the beginning of each such six months period, such employer shall upon being advised of the

true amount of such premium due, forthwith pay to said State Compensation Insurance Fund an amount equal to the difference between the amount actually found to be due and the amount so paid by him at the beginning of said six months period.

Section 135. Every employer insured in the State Compensation Insurance Fund shall semi-annually, on the first day of January and July of each year pay into the State Compensation Insurance Fund in advance the amount of premium determined and fixed by the Commission for the ensuing period. The amount of the premium to be paid by every such employer at the rates fixed and established by the Commission for said State Compensation Insurance Fund shall be on the basis of the annual expenditure of money by said employer for the services of persons engaged in his employment. The amount of premium to be so paid by each such employer shall be determined by the classifications, rules and rates made and published by the Commission. Payment shall be made within the time fixed by this Act and a receipt or certificate certifying that such payment has been made shall be mailed to such employer by the Commission which receipt or certificate shall be prima facie evidence of the payment of such premium.

Section 136. The amount of money to be contributed by the State itself, and by each county, city, town, irrigation or school district, or other taxing district of the State, shall be determined and fixed by said Industrial Commission by any of the methods herein provided for the determination of premiums and rates for private employers, provided however, that the Commission shall make such readjustment of premiums heretofore paid in by public employers and of premiums now due from public employers under the prior Statute, after the same are actually paid in, as it may deem equitable and just.

Section 137. The officials of the State, county, city, town, irrigation or school district or other taxing district of the State, who are charged by law with the duties of raising and appropriating funds of each such subdivision for the payment of expenditures authorized on behalf of each such subdivision shall cause to be raised and appropriated sufficient moneys for the payment of any sum of money required to purchase compensation insurance from said Fund for any such subdivision and the officials who are charged with the duty of issuance and payment of the warrants of each such subdivision, shall pay same when due, provided however, the Commission shall communicate to the General Assembly within the first ten days of each regular session thereof, an estimate of the aggregate amount of money necessary to be contributed by the State during the two years next ensuing as its proper payments due to said Fund.

Section 138. All officials of the State, county, city, town, irrigation or school district or other taxing district of the State

who are charged by law with the duty of keeping or preparing any or all of the books or records of any such subdivision shall upon request furnish to the Industrial Commission of Colorado such information as may be required by the Commission relative to the expenditure of money by any such subdivision for the services of any and all persons in its employ.

It shall be the duty of the Public Examiner of the State of Colorado to audit and examine, at least once a year, all of the books, records and other documents of every public employer as hereinabove set forth as far as they relate to the wage expenditure or payroll of any and all such public employers during the year preceding said examination or audit and said Public Examiner shall furnish to the Commission in form as prescribed by it a verified statement of the total wage expenditure of each and all such subdivisions for the period covered by said examination and audit.

Section 139. The Commission may secure reinsurance covering the catastrophe hazard with respect to any risk or risks carried by the State Compensation Insurance Fund, and the State Treasurer shall pay the premium for such reinsurance from the State Compensation Insurance Fund in the manner provided by this Act for other disbursements from said Fund.

Section 140. The State Treasurer shall be the custodian of the State Compensation Insurance Fund and all disbursements therefrom shall be paid by him upon warrants of the State Auditor upon vouchers issued by the Commission and the State Auditor is hereby authorized and directed to draw warrants upon the State Compensation Insurance Fund for payment thereof, upon order of the Commission.

Section 141. The Commission shall in writing authorize and direct the State Treasurer to invest any portion of the State Compensation Insurance Fund which in the judgment of the Commission is not needed for immediate use. Said Fund, including its surplus and reserves or any portion thereof, may be invested in any warrants or bonds of the State of Colorado or of the United States of America at market price, as may be determined by the Commission. All interest earned upon such portion or portions of the Fund as may be deposited or invested shall be collected by the State Treasurer and placed to the credit of such Fund, provided however, that none of the funds belonging to the State Compensation Insurance Fund shall be used for any other purpose whatsoever save those of said Fund. Upon the direction of the Commission, with the approval of the State Auditing Board, the State Treasurer shall sell or dispose of such portion of the investments of said Fund at market price, as he may be directed.

Section 142. The State Treasurer shall give a separate and additional bond in such amount as may be fixed by the Commission, with sureties to be approved by the Governor, conditioned for the faithful performance of his duties as custodian of the State Compensation Insurance Fund and as custodian of all the bonds, warrants, investments and moneys of, or belonging to said Fund, subject to all provision of law governing bonds of the State Treasurer, and the premium on said bond shall be paid from the State Treasury upon warrant issued by the State Auditor upon voucher approved by the Commission.

Section 143. The State Compensation Insurance Fund shall be open to visitation by the Insurance Commissioner at all reasonable times, and the Insurance Commissioner may require from the Commission reports as to the condition of such Fund, as required by law to be made by other insurance carriers doing business in this State, so far as applicable to said Fund. A thorough examination of said Fund shall be made whenever the Industrial Commission and the Insurance Commissioner deem it necessary, but not less often than once in every two years. Such examination shall be made by a competent, fair and impartial examiner, selected by agreement of the Insurance Commissioner and the Commission, and it shall be an Actuary of recognized standing and free from any connection with any interest opposed to the State Compensation Insurance Fund.

Section 144. Any employer who intentionally misrepresents to the Commission the amount of payroll or wage expenditure upon which any premium under this Act is based, shall be deemed guilty of a misdemeanor and shall be punished by a fine of not more than \$500.00 or jail sentence of not more than thirty days, or both such fine and imprisonment.

Section 145. The Commission shall prepare and furnish to employers at the expense of the State all such blanks as may be necessary to carry out the terms and provisions of this Act in connection with the operation and maintenance of the State Compensation Insurance Fund.

Section 146. The Commission shall cause to be prepared proper schedules showing its classification, rates and regulations which shall be effective at such time or times as may be ordered by the Commission, said classifications, rates and regulations shall be published by posting a copy thereof on the bulletin board in the offices of said Commission.

RATIFICATION OF PRIOR ACTS AND PROCEEDINGS AND CONTINUANCE OF JURISDICTION.

Section 147. The manner, mode and method of proceeding of the Industrial Commission of Colorado in the hearing and disposition of claims, contested and non-contested, arising under

Chapter 179 of the Session Laws of Colorado of 1915, and the Amendments thereto of 1917, is hereby ratified, confirmed and validated.

Section 148. Nothing contained in this Act shall be construed to limit, interfere with, disturb or render ineffective in any degree, any matter, proceeding or transaction pending before, or done or performed under the provisions of Chapter 179 of the Session Laws of 1915 and all Acts amendatory thereof, by the Industrial Commission of Colorado or any department thereof including the State Compensation Insurance Fund, or to effect any right accrued or accruing or to accrue under said Acts, but each and every part thereof are hereby expressly saved and continued under the jurisdiction of said Industrial Commission of Colorado with full power, authority and jurisdiction and with the right and duty in said Commission to dispose of the same.

PROCEDURAL PROVISIONS RETRO-ACTIVE.

Section 149. The compensation provisions of this Act, except the procedural provisions, shall not apply to any injury sustained prior to the taking effect hereof.

DECLARATION OF LEGISLATIVE INTENTION.

Section 150. If any part, section, sub-section, sentence, clause or phrase of this Act, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The General Assembly hereby declare that it would have passed this Act and each part, section, sub-section, sentence, clause or phrase irrespective of the fact that anyone or more other parts, section, sub-section, sentence, clause or phrase be declared unconstitutional.

REPEALING CLAUSE.

Section 151. Chapter 179 of the Session Laws of 1915 and Chapter 155 of the Session Laws of 1917 and all Acts or parts of Acts inconsistent with this Act are hereby repealed.

EMERGENCY CLAUSES.

Section 152. It is hereby declared that this Act is necessary for the immediate preservation of the public peace, health and safety.

Section 153. In the opinion of the General Assembly an emergency exists; therefore, this Act shall take effect and be in force on and after May 1st, 1919.

Approved April 10, 1919.

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The Industrial Commission Law

CHAPTER 180, PAGE 562, SESSION LAWS OF 1915.

Sec. 1. The term "Commission" when used in this Act shall mean the "Industrial Commission of Colorado."

Sec. 2. The term "Commissioner" when used in this Act shall mean one of the members of the Commission.

Sec. 3. Unless the context otherwise requires, a word used in this Act in the singular number shall also include the plural; and a word used in this Act in the masculine gender shall also include the feminine.

Sec. 4. The following terms as used in this Act, shall be construed and have the following meaning, unless otherwise specifically defined in the context:

(a) The term "place of employment" shall mean and include every place, whether indoors or out or underground, and the premises appurtenant thereto, where either temporarily or permanently any industry, trade or business is carried on, or where any process or operation, directly or indirectly relating to any industry, trade or business is carried on, and where any person is directly or indirectly employed by another for direct or indirect gain or profit.

(b) The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged.

(c) The term "employer" shall mean and include:

I. The State, and each county, city, town, irrigation and school district therein, and all public institutions and administrative boards thereof.

II. Every person, association of persons, firm and private corporation (including any public service corporation), manager, personal representative, assignee, trustee and receiver, who has four (4) or more persons regularly engaged in the same business or employment, (except as otherwise expressly provided in this Act), in service under any contract of hire, express or implied.

III. This Act is not intended to apply to employers of private domestic servants or farm and ranch labor; nor to employers who employ less than four employees regularly in the same business, or in or about the same place of employment.

(d) The term "employee" shall mean and include every person in the service of the State or of any county, city, town, irrigation or school district therein, or of any public institution or administrative board thereof, and any other person, association of persons, firm, private corporation, including any public service corporation, personal representative, assignee, trustee or receiver under any contract of hire, express or implied, including aliens, and also including minors who are legally permitted to work under the laws of this State, who, for the purposes of this Act, shall be considered the same, and shall have the same power of contracting with respect to their employment as adult employees.

(e) The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the Commission, or any other determination arrived at or decision made by such Commission.

(f) The term "general order" shall mean and include such order of the Commission as applies generally throughout the State to all persons, employments or places of employment, under the jurisdiction of the Commission. All other orders of the Commission shall be considered special orders.

(g) The term "local order" shall mean and include any ordinance, order, rule or determination of any common council, board of aldermen, board of supervisors, board of trustees, or board of commissioners, of any county, town, city, or city and county operating under any general or special law of this State, or of the Board of Health of the State or any municipality therein, or any order or direction of any official of the State or municipality therein.

(h) The term "deputy" shall mean and include any person employed by the Commission designated as such deputy by the Commission, and who may be engaged in the performance of duties under the direction of the Commission.

(i) The term "safe" or "safety" as applied to an employment or place of employment, shall mean such freedom from danger to the life, health and safety of employees, and such reasonable means of notification, egress and escape in case of fire, as the nature of the employment will reasonably permit.

Sec. 5. There is hereby created a board which shall be known as the "INDUSTRIAL COMMISSION OF COLORADO." Within thirty days after the passage of this Act the Governor, by and with the consent of the Senate, shall appoint one member whose term of office shall expire March 1, 1917, a second mem-

ber whose term of office shall expire March 1, 1919, and a third member whose term of office shall expire March 1, 1921. Upon the expiration of each appointment, the Governor shall appoint members of the Commission, by and with the advice and consent of the Senate, for terms of six years each. Vacancies shall be filled in the same manner for unexpired terms. Not more than two of the Commissioners shall be members of the same political party. Not more than one of the appointees to such Commission shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employers, and not more than one of such appointees shall be a person who, on account of his previous vocation, employment or affiliations, can be classed as a representative of employees;

Each member of the Commission, before entering upon the duties of his office, shall take the oath prescribed by the Constitution, and shall give good and sufficient bond running to the people of the State of Colorado, in the penal sum of ten thousand dollars, conditioned that he shall faithfully discharge the duties of his office and shall account for and pay over to the person entitled thereto, such moneys as shall come into his possession; said bond shall be signed by a surety company duly authorized to do business in this State, or by two or more individuals as surety or sureties and shall be subject to approval by the Governor and shall then be filed with the Secretary of State. If surety company bonds shall be furnished, the premium therefor shall be paid by the State as other expenses of the Commission are paid. In case of a vacancy, the remaining two members of the Commission shall exercise all the powers and authority of the Commission until such vacancy is filled. Each member of the Commission shall receive an annual salary of not to exceed four thousand dollars, and actual expenses necessarily incurred in the performance of his duties, which shall be in full for all services performed. The Commissioners shall devote their entire time to the duties of their office.

A majority of said Commissioners shall constitute a quorum to transact business and for the exercise of any of the powers or authority conferred by this Act.

Sec. 6. The Commission shall have power, with the approval of the State Auditing Board, to employ during its pleasure such deputies, experts, statisticians, accountants, inspectors, clerks, and other employees as it may deem necessary to carry out the provisions of this Act or to perform the duties and exercise the powers conferred by law upon the Commission. The commissioners, secretary, deputies, statisticians, accountants, inspectors, clerks, and all other employees, except experts and actuaries in the employ of the Commission, shall have been for two years prior to such employment or appointment, bona fide residents of the state of Colorado, and skilled and efficient in the duties assigned to them, and each and all of them, except only the experts shall,

while in the employ of the Commission, devote their entire time to the service of the Commission. The Commission shall employ and always maintain in the department a compensation actuary who shall be experienced and skilled and fully competent to perform the duties of the position, and to assist in or take charge of the practical operation of this Act under the general direction of the Commission. The Actuary shall receive such salary as may be agreed upon by the State Auditing Board.

All deputies, statisticians, accountants, clerks, experts and all other employees of the Commission shall receive such compensation as may be fixed by law or by the Commission, acting in conjunction with the State Auditing Board. The salary or compensation of every person holding employment under the Commission shall be paid monthly from the funds appropriated for the use of the Commission, after being approved by the Commission, and the State Auditing Board.

All expenses incurred by the Commission pursuant to the provisions of this Act, including the actual and necessary traveling expenses and other expenses and disbursements of the commissioners, their deputies and employees, incurred while on business of the Commission, shall be paid from the funds appropriated for the use of the Commission, upon claims therefor, itemized and sworn to, made by the person who incurred the same, which shall be allowed by the Commission, subject to the approval of the State Auditing Board.

Sec. 7. The Commission shall be known collectively as the "Industrial Commission of Colorado" and in that name may sue and be sued. It shall have a seal upon which shall be inscribed the words "INDUSTRIAL COMMISSION—COLORADO—SEAL." Its seal shall be affixed to all orders, awards, proceedings and copies thereof and to such other instruments as the Commission shall direct. All courts shall take judicial notice of said seal, and any copy of any record or proceeding of the Commission certified under said seal shall be received in all courts as evidence as if it were the original thereof.

Sec. 8. The Commission shall keep its office at the Capitol and shall be provided by the Board of Capitol Managers or its successors with suitable rooms. The Commission is authorized to procure all necessary office furniture, stationery, books, periodicals, maps, instruments, apparatus and appliances and other necessary supplies and incur such other expenses as may be actual and necessary, and the same shall be paid for in the same manner as other expenses authorized by this Act. The Commission or a Commissioner may hold sessions at any place other than the Capitol when the convenience of the Commission or the parties interested requires.

Sec. 9. Within thirty days after the passage of this Act, the Commission shall meet at the Capitol and organize in the manner

herein provided. It shall be the duty of the secretary to keep a full and correct record of all proceedings of the Commission, to issue all necessary processes, writs, warrants, orders, awards, and notices and to perform all other duties as the Commission may prescribe. He shall also have supervision of the collection of data, information concerning matters covered by the provisions of the Act, and make such reports thereon as the Commission may direct.

The sessions of the Commission shall be open to the public and shall stand and be adjourned without further notice thereof on its record. All of the proceedings of the Commission shall be shown on its record, which shall be a public record, and all voting shall be by the calling of each member's name by the secretary, and each member's vote shall be recorded on the proceedings as the same is cast.

Sec. 10. Subject to the provisions of this Act, the Commission may adopt its own rules of procedure and may change the same from time to time in its discretion.

Sec. 11. It shall also be the duty of the Commission, and it shall have the power, jurisdiction and authority:

(a) To appoint advisors, who shall, without compensation, assist the Commission in the execution of its duties;

(b) To inquire into and supervise the enforcement, as far as respects relations between employer and employee, of the laws relating to child labor, laundries, stores, factory inspection, employment of females, employment offices and bureaus, mining, both coal and metalliferous, fire escapes and means of egress from places of employment and all other laws protecting the life, health, and safety of employees in employments and places of employment;

(c) To investigate, ascertain, declare and prescribe safety devices, safeguards or other means or methods of protection best adapted to render safe the employees of every employment and place of employment, as may be required by law.

(d) To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws relative to the protection of the life, health, safety and welfare of employees in employments and places of employment.

(e) To ascertain, fix and order such reasonable standards, rules or regulations as provided by law, for the construction, repair and maintenance of places of employment, as shall render them safe.

(f) To adopt reasonable and proper rules and regulations relative to the exercise of its powers and authorities and proper rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings; to alter or amend the same from time to time in its discretion; such rules and regulations shall not be effective until ten days after their publication. A copy of such rules and regulations shall be delivered to every citizen making application therefor, and a copy delivered with every notice of hearing;

(g) To license and supervise private employment agencies; to supervise state free employment agencies; to do all in its power to bring together employers seeking employees, and working people seeking employment. It shall investigate the extent and causes of unemployment in the State of Colorado and the remedies therefor, and it shall devise and adopt the most efficient means within its power to avoid unemployment, and to prevent involuntary idleness;

(h) Any county, city or town may enter into an agreement with the Commission for such period of time as may be deemed desirable for the purpose of establishing and maintaining local free employment offices, and it shall be lawful for any county, city or town to appropriate and expend the necessary money and to permit the use of public property for the joint establishment and maintenance of such offices as may be agreed upon;

(i) To collect, collate and publish statistical and other information relating to the work under its jurisdiction; annually, on or before the tenth day of December, to make a full report to the Governor covering its work during the year preceding the first day of said month of December; to make public reports in its judgment necessary;

(j) The Commission shall cause to be printed, and, upon application, furnished, free of charge, to any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this Act; it shall provide such proper record books or records as it shall deem required for the proper and efficient administration of this Act, all such records to be kept in the office of the Commission. It shall also cause to be printed in proper form for distribution to the public proper pamphlets showing its orders, regulations and rules of procedure, and shall furnish the same to any person upon application therefor, and the fact that such orders, regulations and rules of procedure are printed ready for distribution to all who apply for the same, shall be a sufficient publication of the same as required by this Act.

(k) To administer and enforce all the provisions of law relating to compensation for accidental injury to and death of employees.

Sec. 12. All general orders shall take effect upon their publication in the regular pamphlets of rules and regulations issued by the Commission.

Special orders shall take effect as therein directed.

The Commission may, upon application of any person, grant such time as may be reasonably necessary for compliance with any order. Any person may petition the Commission for an extension of time, which the Commission shall grant if it finds such an extension of time necessary.

All orders of the Commission shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise in an action brought for that purpose, pursuant to the provisions of this Act, or until altered or revoked by the Commission.

A substantial compliance with the requirements of this Act, shall be sufficient to give effect to the orders or awards of the Commission and they shall not be declared inoperative, illegal or void for any omission of a technical nature in respect thereto.

Sec. 13. Every employer shall exercise reasonable care and comply fully with all the requirements of law respecting health and safety and to furnish places of employment which shall be safe for employees therein and to furnish and use safety devices and safeguards, and to adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and to do every other thing reasonably necessary to protect the life, health and safety of such employees. Every employer and every owner of a place of employment now or hereafter constructed shall exercise reasonable care to so construct, repair or maintain such place of employment as to render the same safe, in accordance with the Statutes of this State in such cases made and provided.

Sec. 14. Whenever the Commission shall learn, or upon petition by any person be informed, that any employment or place of employment is not safe, it shall proceed summarily with or without notice, to make such investigation as may be necessary to determine the matter complained of, so far as the same may affect the provisions of this Act.

After investigation, the Commission shall call the attention of the Commissioner of Labor, or other officer authorized to inspect and regulate same, and shall order such changes as may be necessary to render such employment or place of employment safe, and comply with the provisions of this Act.

Sec. 15. The Commission is vested with the power and jurisdiction to have such supervision of every employment and place of employment in this State as may be necessary adequately to ascertain and determine the conditions under which the employees labor, and the manner and extent of the obedience by the employer to all laws and all lawful orders requiring such employ-

ment and places of employment to be safe, and requiring the protection of the life, health and safety of every employee in such employment or place of employment, and to enforce all provisions of law relating thereto; and is also vested with power and jurisdiction to administer all provisions of this Act with respect to the relations between employer and employee and to do all other acts and things convenient and necessary to accomplish the purposes of this Act.

Sec. 16. It shall be the duty of all officers and employees of the State, the counties and municipalities, upon request of the Commission to enforce in their respective departments, all lawful orders of the Commission, in so far as the same may be applicable and consistent with the general duties of such officers and employees; and it shall also be their duty to make to such Commission such reports as it may require concerning matters within their knowledge appertaining to the purposes of this Act, and to furnish to it such facts, data, statistics and information as may from time to time come to them appertaining to the purposes of this Act, and the duties of such Commission thereunder, and particularly all information coming to their knowledge respecting the condition of all places of employment subject to the provisions of this Act, as regards the health, protection and safety of employees, and the conditions under which they labor.

It shall be the duty of the Labor Statistician of the Bureau of Labor Statistics to collect, compile and report to the Commission such data, facts and information as shall come to his department or to the Commission concerning the relations between employer and employee and relating in any way to the provisions of this Act.

Sec. 17. For the purpose of making any investigation, with regard to any employment or place of employment, or other matter contemplated by the provisions of this Act, the Commission shall have power to appoint, by an order in writing, any member of the Commission, any deputy or any other competent person as an agent whose duties shall be prescribed in such order.

In the discharge of his duties such agent shall have every power whatsoever for obtaining information granted in this Act to the Commission and all powers granted by law to officers authorized to take depositions are hereby granted to such agent.

The Commission may conduct any number of such investigations contemporaneously through different agents, and may delegate to such agents the taking of all testimony bearing upon any investigation or hearing. The decision of the Commission shall be based upon its examination of all testimony and records. The recommendations made by such agents shall be advisory only and shall not preclude any further investigation, or the taking of further testimony, if the Commission so order.

Sec. 18. Every employer and employee shall furnish the Commission, upon request, all information required by it to accomplish the purposes of this Act, which information shall be furnished on blanks to be prepared by the Commission; and it shall be the duty of the Commission to furnish such blanks to such employer free of charge, upon request therefor. Every employer receiving from the Commission any blanks, with directions to fill out the same, shall cause the same to be properly filled out so as to answer fully and correctly all questions therein propounded, and to give all the information therein sought, or if unable to do so, he shall give in writing good and sufficient reasons for such failure. The Commission may require that the information herein required to be furnished be verified under oath and returned to the Commission within the period fixed by it or by law. The Commission, or any person employed by it for that purpose, shall have the right to examine, under oath, any employee or employer, or the officer, agent or employee thereof, for the purpose of ascertaining any information which such employer or employee is required by this Act to furnish to the Commission. Any employer or employee who shall fail or refuse to furnish such information as may be required by the Commission under authority of this Act, shall, if an employer, be deemed guilty of a misdemeanor and shall be punished by a fine of two hundred dollars, and if an employee shall be deemed guilty of a misdemeanor and shall be punished by a fine of twenty-five dollars.

Sec. 19. The information contained in the reports provided for in the preceding section, and such other information as may be furnished to the Commission, by employers in pursuance of the provisions of this Act, shall be for the exclusive use and information of said Commission in the discharge of its official duties and shall not be open to the public nor to be used in any court, in any action or proceeding pending therein, unless the Commission is a party to such action or proceeding; but the information contained in said report may be tabulated and published by the Commission in statistical form, for the use and information of other State Departments and the public. Any person in the employ of the Commission who shall divulge any information secured by him in respect to the transactions, property or business of any employer to any person other than the Commission, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) and shall thereafter be disqualified from holding any appointment or employment with any department under the State.

Sec. 20. The Commission, or any member thereof, and, on being authorized in writing by the Commission, any other person, may, without any other warrant than this Act, at any reasonable time, enter any building, mine, mine workings, factory, workshop, place or premises of any kind, wherein, or in respect of which, any industry is carried on or any work is being or has been done or

commenced, or any matter or thing is taking place, which has been made the subject of an investigation, hearing or arbitration by the Commission or the board, and inspect and view any work, material, machinery, appliance or article therein, and interrogate any persons in or upon any such building, mine, mine workings, factory, workshop, place or premise as aforesaid in respect of or in relation to any matter or thing hereinbefore mentioned; and any person who shall hinder or obstruct the Commission, or any such person authorized as aforesaid, in the exercise of any power conferred by this section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars.

Sec. 21. All books, records and payrolls of employers, showing or reflecting in any way upon the amount of wage expenditure of such employers, and other data, facts and statistics appertaining to the purposes of this Act shall always be open for inspection by the Commission or any of its agents for the purpose of ascertaining the conditions of employment, and such other information as may be necessary for the uses and purposes of the Commission in its administration of the law.

Any employer who shall refuse to admit such Commission or its agents to such place of employment for such purposes shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Sec. 22. Such Commission, or persons by it duly designated, shall not be bound by the usual common law or statutory rules of evidence or by any technical or formal rules of procedure, other than as herein or by the rules of the Commission provided; but may make such investigations in such manner as in its judgment are best calculated to ascertain the substantial rights of the parties and to carry out justly the spirit of this Act.

Sec. 23. A full and complete record shall be kept of all proceedings had before or under the order of the Commission on any investigation and all testimony shall be taken down by a stenographer appointed by the Commission.

A transcribed copy of the evidence and proceedings, or any specific part thereof, or any investigation, by a stenographer appointed by the Commission, being certified by such stenographer to be a true and correct transcript of the testimony on the investigation, of a particular witness, or of a specific part thereof, carefully compared by him with his original notes, and to be a correct statement of the evidence and proceedings had on such investigation, so purporting to be taken and subscribed, may be received as evidence by the Commission with the same effect as if such stenographer were present and testified to the facts so certified. A copy of such transcript shall be furnished on demand to any party

upon the payment of the fees therefor as prescribed for transcripts in district courts.

Sec. 24. The Commission or any party may in any investigation cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in district courts. All such depositions shall be taken upon commission issued by the Commission and shall be taken in accordance with the laws and rules of court covering depositions in civil cases in the district courts of this State.

Sec. 25. In case of failure or refusal of any person to comply with the order of the Commission or subpoena issued by it or its agents, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, or refuse to permit an inspection as provided in this Act, the district judge of the county in which the person resides, on application of the Commission or any agent appointed by it shall compel obedience by attachment proceedings as for contempt, as in the case of disobedience of the requirements of subpoena issued from such court on a refusal to testify thereon.

Each officer who serves such subpoena shall receive the same fee as a sheriff, and each witness who appears, in obedience to a subpoena before the Commission or its agent shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the district court, which shall be audited and paid from the State Treasury in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers approved by the Commission. No witness subpoenaed at the instance of a party other than the Commission or its agent shall be entitled to compensation from the State Treasury unless the Commission shall certify that his testimony was material to the matter investigated.

Sec. 26. The Commission shall inquire into the general condition of labor in the principal industries in the State of Colorado and especially in those which are carried on in corporate forms; into existing relations between employers and employees; into the effect of industrial conditions on public welfare and into the rights and powers of the community to deal therewith; into the conditions of sanitation and safety of employees and the provisions for protecting the life, limb, and health of the employees; into relations existing between lessees of state lands and the State, as to production and royalties or rentals paid, and into the relations between said lessees and their employees with respect to wages paid and conditions of labor; into the growth of associations of employers and of wage earners and the effect of such associations upon the relations between employers and employees; into the extent and results of methods of collective bargaining; into any methods which have been tried in any state or

in foreign countries for maintaining mutually satisfactory relations between employees and employers; into methods of avoiding or adjusting labor disputes through peaceful and conciliatory mediation and negotiations; into the scope, methods and resources of existing bureaus of labor and into possible ways of increasing their efficiency and usefulness. The Commission shall seek to discover the underlying causes of dissatisfaction in the industrial situation and take all necessary means and methods within the powers of such Commission as provided by law, to alleviate the same, and to report from time to time to the General Assembly such remedial legislation as in the judgment of the Commission may be advisable, with their recommendations thereon.

Sec. 27. The Commission shall do all in its power to promote the voluntary arbitration, mediation and conciliation of disputes between employers and employees, and to avoid the necessity of resorting to strikes, lockouts, boycotts, blacklists, discriminations and legal proceedings in matters of employment. In pursuance of this duty it may appoint temporary boards of arbitration, provide necessary expenses of such boards, order reasonable compensation not exceeding ten dollars per day for each member engaged in such arbitration, prescribe rules of procedure for such arbitration boards, conduct investigations and hearings, publish reports and advertisements, and do all other acts and things convenient or necessary to accomplish the purposes directed in this Section.

Any investigation, inquiry or hearing may be undertaken or held by or before any commissioner, deputy, agent, or board of arbitration, or committee designated for that purpose by the Commission, and every finding, order, award or decision made by those so designated, pursuant to such investigation, inquiry or hearing, when approved and confirmed by the Commission, shall be and be deemed to be the finding, order, award or decision of the Commission.

Sec. 28. For the purpose of such investigations, hearings or arbitrations, the Commission, or any arbitration board appointed by the Commission, shall have all the powers of summoning before it, and enforcing the attendance of witnesses, of administering oaths, and of requiring witnesses to give evidence on oath, or on solemn affirmation, and to produce such books, papers or other documents or things as the Commission, or the board, deems requisite to the full investigation of the matters into which it is inquiring, as is vested in any court of record in civil cases.

Any members of the Commission, or the board, may administer an oath, and the Commission, or the board, may accept, admit and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not. Any party to

the proceedings shall be competent and may be compelled to give evidence as a witness.

Sec. 29. Employers and employees shall give at least thirty days' notice of an intended change affecting conditions of employment with respect to wages or hours; and, in every case where a dispute has been made the subject of an investigation, hearing, or arbitration by the Commission, or the board, until the dispute has been finally dealt with by such Commission, or board, neither of the parties nor the employees affected, shall alter the conditions of employment with respect to wages or hours, or on account of the dispute, do, or be concerned in doing, directly or indirectly, anything in the nature of a lockout or strike, or a suspension or discontinuance of work or employment; but the relationship of employer and employee shall continue uninterrupted by the dispute, or anything arising out of the dispute; but, if either party uses this or any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs through delay, such party shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

Sec. 30. It shall be unlawful for any employer to declare or cause a lockout, or for any employee to go on strike, on account of any dispute prior to or during an investigation, hearing, or arbitration of such dispute by the Commission, or the board, under the provisions of this Act; provided, that nothing in this Act shall prohibit the suspension or discontinuance of any industry or of the working of any persons therein for any cause not constituting a lockout or strike, or to prohibit the suspension or discontinuance of any industry or of the working of any persons therein which industry is not affected with a public interest; provided, further, that nothing in this Act shall be held to restrain any employer from declaring a lockout, or any employee from going on strike in respect to any dispute after the same has been duly investigated, heard, or arbitrated, under the provisions of this Act.

Sec. 31. Nothing in this Act shall be construed to make any findings, determination of the rights of said parties, decision or award of said Commission or of any board of arbitration appointed thereby upon the facts of such controversy, binding, conclusive or enforceable upon any of the parties thereto, or affected thereby, unless

(1) Such parties have agreed in writing prior to the commencement of any such investigation or arbitration, or during the continuance thereof, to accept and be bound by the terms of such findings, determination of rights, decision or award, and then only to the extent in such written agreement provided; or,

(2) Unless said parties shall agree to accept and be bound by such action of the Commission or board of arbitration after the same has been made known to them; provided, however, that in either such instance, the findings, determination of rights, decision and award of said Commission or board of arbitration, when confirmed by formal order of said Commission, shall be and remain in full force and effect, according to the terms and for the time provided in such formal order of the Commission, and shall be binding, effective and enforceable upon the parties thereto, as any finding, order or award of the Commission under the provisions of this Act.

Sec. 32. Any employer declaring or causing a lockout contrary to the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) for each day or part of a day that such lockout exists.

Any employee, who goes on strike contrary to the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for each day or part of a day that such employee is on strike.

Sec. 33. Any person who incites, encourages, or aids in any manner any employer to declare or continue a lockout, or any employee to go or continue on strike, contrary to the provisions of this Act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50.00), nor more than one thousand dollars (\$1000.00), or by imprisonment in the county jail for a term of not more than six months, or both such fine and imprisonment, in the discretion of the court.

Sec. 34. The Commission shall have full power and authority to hear and determine all questions within its jurisdiction, and its findings, award and order issued thereon shall be final, except as in this Act provided.

Any person affected by any finding, order or award of the Commission, may petition for a hearing on the reasonableness of any such finding, order or award.

Such petition shall be verified, and shall specify the finding, order or award upon which a hearing is desired and every reason why such finding, order or award is considered unreasonable. The petitioner shall be deemed to have finally waived all objections to any irregularities and illegalities in the finding, order or award upon which a hearing is sought other than those set forth in the petition. All hearings of the Commission shall be open to the public.

Sec. 35. Upon the filing with the Commission by any party in interest, of such petition, the Commission shall fix a time for the hearing thereof, which shall not be more than forty days after the filing of such application. The Commission shall cause reasonable notice of such hearing, embracing a general statement of such claim, to be given to each party interested, by service of such notice on him personally or by mailing a copy thereof to him at his last known postoffice address at least ten days before such hearing. Such hearing may be adjourned from time to time in the discretion of the Commission, and hearings shall be held at such places as the Commission may designate. Either party shall have the right to be present at any hearing, in person or by attorney, or any other agent, and to present such testimony as may be pertinent to the controversy before the Commission, and shall have the right of cross-examination; provided, that the Commission may, with or without notice to either party, cause testimony to be taken, or an inspection or investigation to be made; the testimony so taken shall be reported to the Commission for its consideration upon final hearing. All ex parte testimony taken by the Commission shall be reduced to writing and either party shall have opportunity to examine and rebut the same on final hearing.

Upon such hearing, if it shall be found that the finding, order or award complained of is unreasonable, the Commission shall substitute therefor such other finding, order or award as shall be just and reasonable, or may rescind such finding, order or award.

Whenever at the time of the final determination upon such hearing it shall be found that further time is reasonably necessary for compliance with the finding, order or award of the Commission, the Commission shall grant such time as may be reasonably necessary for such compliance.

Sec. 36. After final hearings by said Commission, it shall make and file (1) its findings upon all the facts involved in the controversy, and (2) its award, which shall state its determination as to the rights of the parties. Pending the hearing and determination of any controversy before it, the Commission shall have power to make such reasonable orders concerning the subject matter thereof, as may be necessary to give effect to the provisions of this Act.

The Commission, on its own motion, on three days' notice to the parties interested, by mail or served personally, may modify or change its order, finding or award at any time within fifteen days from the date thereof, if it shall discover any mistake therein.

Sec. 37. Any person in interest being dissatisfied with any such finding, order or award of the Commission issued or promulgated by virtue of the authority conferred in this Act, may commence an action in the district court in and for the county

wherein the injury was sustained or in the District Court in and for the City and County of Denver against the Commission as defendant to modify or vacate the same on the ground that the same is unlawful, or unreasonable.

All such actions shall have precedence over any civil cause of a different nature pending in such court, and the District Court shall always be deemed open for the trial thereof, and the same shall be tried and determined by the District Court as other civil actions.

Sec. 38. No action, proceeding or suit to set aside, vacate or amend any finding, order or award of the Commission, or to enjoin the enforcement thereof, shall be brought unless the plaintiff shall have first applied to the Commission for a hearing thereon as provided in this Act, and unless such action, proceeding or suit shall have been commenced within 60 days after final decision by the Commission; nor shall any injunction issue suspending or staying any order of the Commission except upon application of the District Court or a judge thereof, notice to the Commission and hearing thereon.

In such action, a copy of the complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. The Commission shall file its answer within twenty days after the service of the complaint. With its answer, the Commission shall make return to said court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and of its order, finding and award. Such return of the Commission when filed in the office of the clerk of the District Court shall constitute a judgment roll in such action; and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such court in such action. Said action may thereupon be brought on for hearing before said court upon such record by either party on ten days' notice to the other; subject, however, to the provisions of law for a change of the place of trial or the calling in of another judge.

Sec. 39. If upon trial of such action it shall appear that all issues arising in such action have not theretofore been presented to the Commission in the petition filed as provided in this Act, or that the Commission has not theretofore had an ample opportunity to hear and determine any of the issues raised in such action, or has for any reason, not in fact heard and determined the issues raised, the court shall, before proceeding to render judgment, unless the parties to such action stipulate to the contrary, transmit to the Commission a full statement of such issue or issues not adequately considered, and shall stay further proceedings in such action for fifteen days from the date of such transmission, and may thereafter grant such further stays as may be necessary.

Upon the receipt of such statement, the Commission shall hear and consider the issues not theretofore heard and considered, and may alter, modify, amend or rescind its findings, order or award complained of in said action, and shall report its action thereon to said court within ten days from the receipt of the statement from the court for further hearing and consideration.

The court shall thereupon order such amendment or other proceeding as may be necessary to raise the issues as presented by such modification of the finding, order or award as may have been made by the Commission upon the hearing, if any such modification has in fact been made, and shall proceed with the trial of such action.

Sec. 40. Upon such hearing, the court may confirm or set aside such order, but only upon one or more of the following grounds:

- (1) That the Commission acted without or in excess of its powers.
- (2) That the finding, order or award was procured by fraud.
- (3) That the findings of fact by the Commission do not support the order or award.
- (4) That the award does not do substantial justice to the parties.

Any action commenced in court under this section to set aside or modify any finding, order or award of the Commission shall be brought to trial within thirty days after issue shall be joined, unless continued on order of the court for good cause shown. No continuance shall be for longer than thirty days at one time.

Upon the trial of any such action the court shall disregard any irregularity or error of the Commission unless it be made to affirmatively appear that the claimant was damaged thereby.

The record in any case shall be transmitted to the Commission within twenty days after the order or judgment of the court, unless, in the meantime, a writ of error addressed to the District Court shall be obtained from the Supreme Court, for the review of such order or judgment.

Upon the setting aside of any finding, order or award, the court may recommit the controversy and remand the records in the case to the Commission for further hearing or proceedings; or it may enter the proper judgment upon the findings, as the nature of the case shall demand. An abstract of the judgment entered by the trial court upon the review of any order or award, shall be made by the clerk thereof upon the docket of said court, and a transcript of such abstract may be obtained as of any entry upon such docket.

Sec. 41. The Commission or any party aggrieved by a judgment entered upon the review of any such finding, order or award, may have questions of law only reviewed summarily by the Supreme Court by writ of error, as provided by law, and said cause shall be advanced upon the calendar of the Supreme Court, and a final decision rendered within sixty (60) days from date of issuance of the writ. It shall not be necessary for said Commission or any party aggrieved by said action to execute, serve or file any undertaking in order to obtain such writ of error.

Sec. 42. No fees shall be charged by the clerk of any court for the performance of any official service required by this Act, except for the docketing of judgments, and for certified copies of transcripts thereof. In proceedings to review any finding, order or award, costs as between the parties shall be allowed, or not, in the discretion of the court, but no costs shall be taxed against said Commission. In any action for the review of any finding, order or award, and upon any review thereof by the Supreme Court, it shall be the duty of district attorney of the county wherein said action is pending, or the Attorney General, if requested by the Commission, to appear on behalf of the Commission, whether any other party defendant should have appeared or be represented in the action or not.

Sec. 43. Any person who shall wilfully fail or neglect to appear and testify or to produce books, papers and records as required by subpoena duly served upon him, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or imprisoned in the county jail not longer than thirty days for each such offense.

The district court of the county wherein such person resides, or of the City and County of Denver, upon application of the Commission or its agent, may issue an order compelling the attendance and testimony of witnesses and the production of books, papers and records before such Commission or any such agent.

Sec. 44. If any employer or employee, or any other person shall violate any provisions of this Act, or shall do any act prohibited thereby, or shall fail or refuse to perform any duty lawfully enjoined, within the time prescribed by the Commission, for which no penalty has been specifically provided, or shall fail, neglect or refuse to obey any lawful order made by the Commission or any judgment or decree made by any court as provided by this Act, for each such violation, failure or refusal, such employer, employee or other person shall be punished by a fine of not less than one hundred dollars for each such offense.

Sec. 45. Every day during which any employer or officer or agent thereof, or any employee, shall fail to comply with any

lawful order of the Commission or to perform any duty imposed by this Act, shall constitute a separate and distinct violation thereof.

Sec. 46. All penalties provided for in this Act shall be collected in a civil action brought against the employer or employee as the case may be, in the name of the Commission, and all such penalties, when collected, shall be paid into the expense fund of such Commission and become a part thereof.

Sec. 47. Upon request of the Commission, the Attorney General, or under his direction, the district attorney of any district or county, shall institute and prosecute the necessary action or proceedings for the enforcement of any of the provisions of this Act, or for the recovery of any money due the Commission, or any penalty herein provided for, arising within the district or county in which he was elected, and shall defend in like manner all suits, actions or proceedings brought against the Commission.

Sec. 48. If, for the purpose of obtaining any order, benefit or award under the provisions of this Act, either for himself or for any other person, any one wilfully makes a false statement or representation, he shall be guilty of perjury and punished accordingly.

Sec. 49. There is hereby appropriated out of any money in the Treasury, not otherwise appropriated, the sum of fifty thousand dollars or so much thereof as may be necessary to carry out the provisions of this Act for the current biennial period.

Sec. 50. All acts and parts of acts in conflict with the provisions of this Act, are hereby repealed, provided that no right of action now existing shall be affected by such repeal, and nothing contained in this Act shall be construed to affect the authority of the State Board of Health relative to the public health.

Sec. 51. If any part, section, sub-section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The General Assembly hereby declares that it would have passed this Act and each part, section, sub-section, sentence, clause or phrase, irrespective of the fact that any one or more other parts, sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Sec. 52. It is hereby declared that this Act is necessary for the immediate preservation of the public peace, health and safety.

Sec. 53. In the opinion of the General Assembly, an emergency exists; Therefore, this Act shall take effect and be in force immediately after its passage.

Approved: April 10, 1915.

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