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Labor and Industry

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LABOR AND INDUSTRY

Occupational Diseases. Chapter 164 makes a number of minor changes in the compensation and procedural provisions of previous statutes. Compensation payable to dependents of one dying from an occupational disease continues to be the equivalent of three hundred fifty weeks.¹ Dependents are reclassified into three classes: (1) presumptive, (2) total in fact, and (3) partial in fact, and each is defined.² Burial expenses to be paid by an employer is increased to three hundred dollars.³ The period during which the employer is liable for treatment, services, and supplies is increased to one hundred eighty days and as long thereafter as the Industrial

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1. Ind. Acts 1947, c. 164, § 1, rewords the provisions of Ind. Acts 1945, c. 290, § 1, Ind. Stat. Ann. (Burns, Supp. 1945) § 40-2207.
 2. Id. §§ 2, 3, 4. These classes take exclusively in succession. Cf. In Re Marshall, 70 N.E. (2d) 772 (Ind. App. 1947). Presumptive dependents include a wife living with her husband at the time of his death; a husband both physically and financially incapable of self-support; an unmarried child under the age of eighteen years, living with the parent at the time of his death; such child, though not living with the parent, if the laws of the state impose an obligation of support; an unmarried child over eighteen years who is either physically or mentally incapable of his own support, where the law requires the parent to support the child; and an unmarried child over eighteen years who is keeping house for and living with the parent at the time of the parent's death. A common law marriage relationship is not recognized by the Act unless it has existed for not less than five years prior to the death of the spouse. Total and partial dependents in fact must be related to the deceased employee by blood or marriage and must be actually dependent upon the employee.
 3. Id. § 5. Under the previous statute the burial expense was limited to \$165. Ind. Acts 1945, c. 290, § 1, Ind. Stat. Ann. (Burns, Supp. 1945) § 40-2207.

Board may deem reasonably necessary.⁴ Refusal of treatment by the employee bars his right to compensation and his right to assert a claim under the Act.⁵ Treatment by "spiritual means or prayer," in lieu of medical treatment, *may* be permitted by the employer.⁶

In all actions brought to recover damages against an employer subject to the Act, the customary privilege of preventing a doctor from testifying to facts ascertained in examining or attending an employee has been abolished.⁷ Provision is also made for delivery of a statement by the doctor to the employee, if the doctor is paid by the employer, and to the employer, if the doctor is paid by the employee.⁸ An employer who requests an examination of an employee residing in the state must pay in advance for his travel, food, and lodging expenses and reimburse him for loss of wages.⁹

Procedurally the Act requires five days' notice to the opposite party and an order of the Industrial Board before one may seek the judgment of a circuit or superior court on the record of the Industrial Board.¹⁰ The time within which the Board may modify an award is extended from one to two years, except in applications for increased awards for permanent partial impairment.¹¹

Industrial Accidents. Chapter 162 makes a number of minor compensation and procedural changes similar to those in Chapter 164, pertaining to occupational diseases. Liability for failure to exact from a contractor a certificate of compliance with the Act is modified and limited to contracts for the performance of any work exceeding \$500 in value.¹²

4. Id. § 6. Under Ind. Acts 1937, c. 69, § 9, Ind. Stat. Ann. (Burns, Repl. 1940) § 40-2209, the maximum medical service which could be required was sixty days.

5. Similar to Ind. Acts 1947, c. 162, § 3.

6. Ind. Acts, 1947, c. 164, § 6. Compare Wis. Stat. (Brossard, 1945) § 102.42 "Christian Science treatment in lieu of medical . . ."

7. Id. § 7. For general statute as to physician-patient privilege, see Ind. Acts 1881, c. 38, § 275, Ind. Stat. Ann. (Burns, Repl. 1946) § 2-1714.

8. Ind. Acts 1947, c. 164, § 7. This is similar to the provisions of Ind. Acts 1947, c. 162, § 4, relating to industrial accident cases.

9. Similar to Ind. Acts 1947, c. 162, § 4.

10. Ind. Acts 1947, c. 164, § 8.

11. *Ibid.* To the same effect, Ind. Acts 1947, c. 162, §§ 12, 13.

12. Ind. Acts 1947, c. 162, § 1. The previous act required a certificate for any work, Ind. Acts 1929, c. 172, § 14, Ind. Stat. Ann. (Burns, Repl. 1940) § 40-1214.

A contractor must continue to exact a certificate of compliance from every subcontractor. The Act continues the two-year limitation on actions, but changes the wording from "after the injury" to "after the occurrence of the accident."¹³ The period during which the employer is liable for treatment, services, and supplies is increased to one hundred eighty days and as long thereafter as the Industrial Board may deem reasonably necessary.¹⁴ Refusal of treatment by the employee bars any right to compensation and to assert a claim under the Act. Artificial limbs, eyes, teeth and braces must be furnished by the employer where injury results in their need.¹⁵

Provisions similar to those of Chapter 164, *supra*, destroying the physician-patient privilege, requiring statements of examining doctors, and providing for travel expenses of employees required to attend examinations, are incorporated in Section 4 of this Chapter. Procedural changes are made in the method of obtaining an autopsy, and the Act requires that the next of kin be given an opportunity to have a representative present. If proper notice is not given, all evidence obtained by the autopsy may be suppressed upon motion duly made to the Industrial Board.¹⁶

There are very few changes in the compensation schedules. A provision is added for proportionate compensation for partial loss of hearing.¹⁷ Compensation payable to dependents of one dying from injuries continues to be the equivalent of three hundred fifty weeks.¹⁸

Dependents are reclassified and defined in the same manner as in Chapter 164, *supra*.¹⁹ The Act also increases to three hundred dollars the burial expenses to be paid by the employer.²⁰ Payment may be made in a lump sum immediately, instead of after a period of twenty-six weeks.

13. *Id.* § 2.

14. *Id.* § 3. Cf. Ind. Acts 1947, c. 164, § 6, n. 4, *supra*.

15. *Ibid.*

16. Ind. Acts 1947, c. 162, § 4.

17. *Id.* § 5.

18. *Id.* § 6, similar to Ind. Acts 1947, c. 164, § 1.

The section rewords Ind. Acts 1945, c. 188, § 6, Ind. Stat. Ann. (Burns, Supp. 1945) § 40-1402.

19. Ind. Acts 1947, c. 162, §§ 7, 8, 9, see n. 2 *supra*.

20. *Id.* § 10. Cf. Ind. Acts 1947, c. 164, § 5.

21. *Id.* § 11, amending Ind. Acts 1937, c. 214, § 4, Ind. Stat. Ann. (Burns, Repl. 1940) § 40-1408.

Procedural changes similar to those in Chapter 164, *supra*, are made.²²

Workmen's Compensation Insurance. Chapter 75 prescribes a legislative standard for determining the propriety of Compensation Insurance premium rates²³ and establishes an administrative procedure for notice, hearing, and judicial review in proceedings for the approval of rates less than the maximum premium rate.

Section 1 (b) makes it unlawful for official personnel to disclose to unauthorized persons any information concerning premiums approved at less than maximum rates. No penalty is prescribed for violation of the section.

MOTOR VEHICLES

Motor Clubs—Chapter 338 amends the Traffic Code.¹ The most important change is in the authorization of motor clubs whose membership cards may contain bail bond guarantees up to one thousand dollars.² The Act does not indicate the statute under which the motor clubs must be organized. The only requirement for formation is that "any association or corporation operating as a motor club . . . shall deposit with the Secretary of State . . . cash in the sum of twenty-five thousand dollars or an annual bond" in the same amount.³ The following three possibilities are submitted: 1. The Indiana General Corporation Act⁴ may apply. But arguments against that Act's application are that a motor club under the new Act need not be a corporation;⁵ a motor club, if a corporation, need not be organized for "pecuniary profit;"⁶ and a motor club, although a corporation organized for "pecuniary profit," may be organized for "insurance . . . business" and hence be expressly excluded.⁷ 2. The Indiana General Not For Profit Corporation Act⁸ may apply, if the

22. *Id.* §§ 12, 13.

23. This is part of the general insurance rate regulation discussed in topic: Insurance, *supra*, p. 364.

1. *Ind. Stat. Ann.* (Burns, 1933) § 47-1801.

2. *Ind. Acts* 1947, c. 338, § 20.

3. *Ibid.*

4. *Ind. Stat. Ann.* (Burns, 1933) § 25-201 to § 25-254.

5. *Supra*, n. 2.

6. *Ind. Stat. Ann.* (Burns, 1933) § 25-201.

7. *Ibid.*

8. *Ind. Stat. Ann.* (Burns Supp. 1945) § 25-521 to § 25-542.