

Barbee & Castleman

General Insurance

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SYNOPSIS OF

Kentucky Workman's Compensation Act

Louisville, Kentucky, March 31, 1914.

The Kentucky Legislature passed on the 17th of this month a Workman's Compensation Act. The Bill has been signed by the Governor and becomes a law the 16th of June, but does not become effective between Employers and Employes until the 1st of January, 1915.

The Bill is quite voluminous, embracing seventy-five sections, and goes into much detail. The following condensed statement of its provisions in convenient form should be of interest to all Employers and Employes.

The numbers enclosed in brackets refer to Sections of the Act.

Considerable criticism has been made of the Bill on the ground that it does violence to certain sections of the State Constitution, and that if attacked in Courts same may be held unconstitutional and void. Criticism is also made of the maximum rate limit of \$1.25 per \$100.00 of payroll set out in the Bill, (15).

It does seem most inadequate to provide anything like a sufficient fund when rates of other compensation States, such as Ohio, Michigan and Massachusetts, run in certain classifications, in excess of \$14.00 per \$100.00. The Compensation Board however, must re-adjust rates on the first of July, 1915, and semi-annually thereafter, (15-22).

The Law applies to practically all industries employing over six persons other than casual employes and excepting agricultural and domestic pursuits. (14 and 15).

The State does not assume the place of Insurer, but The Compensation Board acts only as a Trustee to collect from Employers a certain per cent of their payrolls according to rates and classes and distribute same to the injured Employee or their dependents if killed, according to a certain schedule of benefits named in the Bill.

The Act is very embracive in its terms and goes into great detail and is considered to be a very carefully drawn instrument.

Great latitude is given the Board to provide for all matters not specifically covered.

OPERATION OF ACT ARRANGED ACCORDING TO THE NATURAL SUCCESSION OF EVENTS.

Board.

"THE WORKMAN'S COMPENSATION BOARD" is composed of the Attorney-General, Commissioner of Insurance and Commissioner of Agriculture, Labor and Statistics. (1).

Board to Organize.

When this is to be done is not specified but it will likely be soon after the Act becomes a law, June 16, 1914.

Board Shall Print its rates, rules, applications, etc., and furnish same free on application. (13 and 65).

Act Effective between Employers and Employes, January 1, 1915. (75).

Industries Subject to Act. (15). Classified as follows:

1. Coal mines, including their tipples, power, light, heating and ventilating plants, tramways, private tracks and siding and accessory and auxiliary plants, working in or with by-products.
2. Paint manufactories, oil refineries, oil and gas wells including their pipe lines, storage, power or light plants, tramways, private tracks and sidings, and accessory and auxiliary plants working in or with by-products.
3. Iron and steel mills, including blast furnaces, smelters, tube works, rolling mills and their accessory and auxiliary plants, working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.
4. Sheet and tin plate mills, including their accessory and auxiliary plants, working in or with by-products, and plants generating power, light or heat, and tramways, private tracks or sidings.
5. Foundries, machine shops, firearm factories, tool factories, car building and repairing, structural iron works and working in or with iron or steel, not otherwise specified, when power driven machinery is used, together with their necessary and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.
6. Stamped metal works, can factories, enamel iron works, and workings in or with sheet iron or tin plates, not otherwise specified, where power-driven machinery is used, together with their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.
7. Logging—Logging railroads and tramways, saw mills, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.
8. Planing mills, wood pulp, cordage and paper mills, box factories, cooperage plants, furniture factories, woodenware or wood fiber ware manufactories, vehicle works of every kind, including their accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.
9. Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, glass light fixtures, parts, lamps, window and plate glass, potteries of

all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china, crockery-ware using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating light or heat, and tramways, private tracks and sidings.

9a. Glass houses of all kinds, including manufactories of tableware, bar goods, bottles, tumblers, glass light fixtures, parts, lamps, window and plate glass, potteries of all kinds, including tile, brick, terra cotta, fire clay, earthenware, porcelain, china and crockery-ware, not using automatic machinery, together with accessory and auxiliary plants working in or with by-products, and plants generating power, light or heat, and tramways, private tracks and sidings.

10. Printing plants of all kinds, electrotyping, photo engraving, engraving, lithographing, embossing, book binding and accessory and auxiliary lines of work and manufacture.

11. Woolen mills, knitting mills, cotton mills, carpet and rug mills, clothing manufactories of every kind and working in or with textiles not otherwise specified.

12. Breweries, bottling works, canneries of fruit, vegetables, oils, fish, milk or meat, manufactories of preserves, jellies, catsup, sauces, relishes, pickles, flour and feed mills, bakeries, confectioneries, drug and extract manufactories, tobacco, cigar, stogie and cigarette manufactories, in which power-driven machinery is used.

13. Slaughter and packing houses, stock yards, soap, tallow, lard and grease manufactories, tanneries, artificial ice, and refrigerating and cold storage plants, creameries, and carbon black factories, in which power driven machinery is used.

14. Steam laundries, dyeing and cleaning plants, stamping, embossing and working with leather, shoe and harness manufactories, mattresses and bedding factories, upholstering factories, manufactories of rubber goods, and auxiliary and accessory lines of work and manufacture not otherwise specified.

15. Steam and other railroad and transportation systems, not otherwise specified.

16. Street and interurban railways, whether propelled by electricity or other power.

17. Telegraph and telephone plants and systems, electric light and power plants and systems, steam heat and power plants and systems, water works systems, gas works and systems, grain elevators, and all lighting, heating or power systems not otherwise specified.

18. Quarries, stone crushers, gravel pits, mines, other than coal mines, and working with asphalt, cement, stone or other building material not otherwise specified, power propelled ferries, sand diggers and other water craft.

19. Such works, occupations and manufactories specified in the foregoing eighteen classifications as are operated without power-driven machinery.

20. Match factories, powder mills, fireworks factories and works in which articles of an explosive nature are mixed or manufactured.

21. Constructing of tunnels, shafts, bridges, trestles, steeples, towers, grain elevators, tanks, water towers, windmills, subaqueous works, iron or steel frame structure, or parts of structures, blast furnaces, smokestacks, cupolas or chimney more than fifty feet high, water works and

systems, electric lights and power plants and systems, gas works, systems, installation of steam boilers, engines and dynamos, steam railroads, logging railroads, street railways and systems, boat building with scaffolds, floating docks, engineering works, structural work on buildings over three stories in height, not otherwise specified, and drilling of wells.

22. Construction and installation of sewers, fire escapes, freight or passenger elevators, advertising signs, ornamental work on or in buildings, metal ceilings, plate or window glass, electrical wiring, stairways, buildings which require galvanized iron or tin work, marble, stone or brick work, roof work, slate work, plumbing work, carpenter work, electric work, installing automatic sprinklers, electric or fire alarm systems, heating or ventilating systems, or machinery not otherwise specified, covering steam pipes and boilers, road and street making, street or other grading and structural work not otherwise specified.

23. Such works or occupations not specified in the foregoing classifications in connection with which employer and employes shall voluntarily apply to the commission for the benefit and protection of this Act.

Industries Not Subject to Act.

1. Agricultural pursuits.
2. Domestic pursuits.
3. All industries employing less than six employees.
4. All industries, trades and occupations not specifically mentioned, unless the employer and employees voluntarily apply to Board to be included. (15-Sub.-23.)
5. Casual employes are not covered, even though the industry is specifically mentioned. (14-15.)

Duties, Rights and Liabilities of Employer.

1. All Employers subject to Act must notify Board of such fact within thirty days from organization of Board, blanks for this purpose to be furnished by the Board. (17).
2. Employer decides whether or not to come under the Act. (74).
3. Those who elect not to do so must notify Board in writing on or before November 1, 1914. (74).
4. Those who do not so notify the Board will be presumed to have accepted the Act and must pay into the Fund. (74).
5. Payment in advance for the months of January, February and March, 1915, to be made by Employer on or before January 1, 1915—same to be based on any three months operation in 1914 to be selected by the Board. (28). Premiums are based on gross annual payroll at rates fixed by Board. (15).
6. Employer must post notices on premises advising his Employes of his election to come under Act. (30).
7. Subsequent payments to be made monthly on the 10th. Under or over payments for the first three months to be adjusted on first monthly payment. (28).
8. Employer must report all accidents to Board (60), and the benefits provided in the Act are paid by it. (35 and 42).
9. Employers must give Board all information as requested. (18).
10. Books and records of Employers showing payroll information open to Board. (57).
11. Misrepresentation of payrolls subject Employers to heavy penalties. (58).
12. Employers accepting Act and not in default in payment

of premiums shall not be liable otherwise, for injury or death of his Employes (31), except where,

(a). The Employe has served notice on him and mailed copy to Board that he will not accept the Act. (32).

(b). Such injury or death was caused by the deliberate intention of the Employer. (36).

(c). The injured or killed Employe, was a minor, illegally employed, and said minor, or if killed, his representative, elects to sue for damages. (47).

In all such cases the Employer may avail himself of his common law defenses. (32).

13. Employer who deducts any portion of premium from Employe's wages subject to fine. (55).

Employers Not Accepting Act.

1. Must notify Board by November 1, 1914, that they do not desire to accept. They may accept at any time later if they wish. (74).

2. Employers not accepting Act and those who are in default in payment of premiums, may be sued for damages for injuries or death with the following defenses removed. (34).

(a). Fellow Servant.

(b). Assumption of Risk.

(c). Contributory Negligence.

Employers Can Carry Their Own Risk Or Insure It.

Employers, electing not to accept Act or being in default in premiums, can

1. Carry his own risk, by satisfying Board of his solvency, and deal directly with his Employes, paying same benefits as Board. (70).

2. Carry insurance covering his liability in any Company admitted to the State, the amounts to be paid not to be less than those provided in the Act. (71).

Employes, Their Duties And Rights.

1. All employes including Minors, may elect to accept the Act and waive all right of action that he or his representative has or might have under the Constitution, Common Law or Statutes. (29).

2. All employes are presumed to accept the Act if they continue to work after notices of acceptance are posted by Employer. (30).

3. Those accepting Act receive compensation (30), and waive right of action for damages, except where

(a). Such injury or death was caused by the deliberate intention of Employer (36) or

(b). Where the Employe was a Minor, illegally employed. (47). In such instances suits for damages can be brought.

4. No employe, or his dependents, can claim compensation for injuries or death caused by self-inflicted injury, wilful misconduct or intoxication. (36).

5. If employe is injured, attending physician and also employe, if able, must give notice of accident to Board and Employer. (60).

6. Employes may elect not to go under the Act by serving notice on Employer and mailing copy to Board before receiving injury, and may maintain action at law for damages. To such action all defenses may be pleaded by the Employer. (32).

7. Employe may later on accept, if he desires to do so, by giving his Employer and the Board notice. (32).

8. Application for benefits must be made in one year from injury. (75).
9. Employees do not contribute to Fund. (55).
10. Medical examination may be required of claimants. (56).
11. Compensation before payment is exempt from creditors. (51).
12. Agreement to waive compensation is void. (55).

Compensation Awards.

1. Medical nurse and Hospital service and medicine not over \$100.00. (35).
2. Funeral Expenses—not over \$75.00. (37).
3. No compensation first week. (38).
4. Temporary total disability—50% of average wages at time of injury. Not over \$12.00 nor less than \$5.00 per week, not to exceed \$3,750.00 in the aggregate. (39).
5. Partial disability—50% of impairment of earning power not over \$12.00 a week, nor more than \$3,750.00 in the aggregate. Minor injuries vary from one-half to two-thirds of wages from 15 to 200 weeks. (40).
6. Permanent total disability—50% of wages not over \$12.00 nor less than \$5.00 paid until death. (41).
7. In case death results in two years certain benefits are paid to dependents, if any, total amount not to exceed \$3,750.00. (42).
8. If no dependents, only hospital and funeral charges. (35 and 37).
9. Board may award, on a hearing, 10% additional of regular benefits if injury or death is caused by failure of Employer to discharge a non-delegable duty. (45).
10. Board may award on a hearing 25% additional of the regular benefits in case of failure by employer to observe statutory requirements respecting safeguards. (46).
11. Board may award, on a hearing, any sum not over \$2,000.00 additional to regular benefits, where injured or killed, employe is a minor and was illegally employed. (41).

Periodical Payments may be commuted by payment of one or more lump sums. (50).

Future Injuries, to an employe receiving periodical payments, or who had received a lump sum, shall be adjusted with reference to the combined effect of injuries and payments received. (48).

Jurisdiction Continues, of cases by Board. (49).

Board's Decision Final, except that appeal lies to Circuit Court from decision of Board denying compensation on ground that accident did not arise in course of employment or on any other ground going to basis of complainant's right. (52).

Suits Pending December 31, 1914 Not Affected. (69).

If Act is Declared Invalid an accounting of the money received shall be made according to the justice of the case. (66).

The foregoing are the pertinent features of the Act. The complete Act will likely be printed by the Board and be ready for distribution by August 1st.

We represent strong companies that will write the Compensation Insurance permitted under this act, and will be glad to quote rates, and write policies enabling Employers to deal directly with their Employés.

BARBEE & CASTLEMAN