

# HOUSE . . . . No. 1132

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By Mr. Vaughan of Belmont, petition of John W. Vaughan for legislation to provide for a voluntary system for the payment of hospital, surgical operation, sickness, bodily injury and maternity benefits to employees. Labor and Industries.

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Forty-Seven.

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AN ACT PROVIDING FOR A VOLUNTARY SYSTEM FOR THE PAYMENT OF HOSPITAL, SURGICAL OPERATION, SICKNESS, BODILY INJURY AND MATERNITY BENEFITS TO EMPLOYEES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby  
2 amended by inserting after chapter 152, as ap-  
3 pearing in the Tercentenary Edition, the following  
4 new chapter:—

5 CHAPTER 152A.

6 VOLUNTARY SYSTEM FOR THE PAYMENT OF HOSPITAL,  
7 SURGICAL OPERATION, SICKNESS, BODILY IN-  
8 JURY AND MATERNITY BENEFITS TO EMPLOYEES.

9 *Section 1.* Every person in the service of another  
10 under any contract of hire or apprenticeship written  
11 or implied, except one whose employment is not in

12 the usual course of the trade, business or occupation  
13 of the employer, shall be entitled to the voluntary  
14 benefits provided herein; provided, however, that  
15 this act shall not apply to domestic servants, farm  
16 laborers or persons employed by the federal govern-  
17 ment or any instrumentality thereof or by the  
18 state or any subdivision thereof; nor shall such act  
19 apply to any group of employees hired by a common  
20 employer unless not less than seventy-five per cent  
21 of all eligible employees of such employer elect to  
22 accept the benefits of this act; nor shall such act  
23 apply to any group of employees hired by a common  
24 employer of less than ten eligible employees.

25 *Section 2.* Nothing herein shall be construed to  
26 affect any system in operation at the effective date  
27 of this act provided the benefits under such system  
28 equal the benefits provided herein, and further pro-  
29 vided that such system is approved by the industrial  
30 accident board for the security of employees, and  
31 any contract of insurance which is a part of such  
32 system shall be approved by the insurance commis-  
33 sioner as to the adequacy and reasonableness of  
34 premium charges and also as to form. Any person  
35 aggrieved by a ruling of the industrial accident  
36 board or the insurance commissioner under this  
37 section may have a right of appeal to the superior  
38 court for a review thereof.

39 *Section 3.* Any employee may elect to remain  
40 outside the provisions of this act provided he shall  
41 so notify his employer in writing within thirty days  
42 after the effective date of this act, or if an employee  
43 is hired after the effective date of this act, then such  
44 notice shall be within thirty days after his contract  
45 of hire. Any employee who has notified his employer

46 of his election to remain outside the provisions of  
47 this act shall not be required to make any contribu-  
48 tion by payroll deductions under this act.

49 *Section 4.* Every employee who because of total  
50 incapacity is unable to perform any services for  
51 wages and who has not given his employer notice in  
52 accordance with section three to remain outside  
53 this act shall be entitled to the following specific  
54 benefits: —

55 (a) Two thirds of the employee's average weekly  
56 wages but not more than twenty dollars a week,  
57 such benefits shall begin two weeks after the em-  
58 ployee has been totally incapacitated, provided, that  
59 the period covered by such benefits shall not be  
60 greater than thirteen weeks for each continuing  
61 total incapacity, and provided that a certificate from  
62 a duly licensed physician supports such claim of  
63 total incapacity.

64 (b) An employee shall be allowed for confinement  
65 in a legally chartered hospital expenses up to four  
66 dollars and seventy-five cents per day, for not more  
67 than thirty days during each period of total in-  
68 capacity. The employee shall also be allowed up to  
69 twenty-five dollars for operating room, X-ray, labo-  
70 ratory and anesthetic fees incurred. The employee  
71 shall have the right to choose a hospital of his own  
72 choice.

73 (c) An employee shall be allowed benefits for  
74 surgical operation up to one hundred and fifty dol-  
75 lars for each operation provided such operation is  
76 performed by a duly licensed physician. A schedule  
77 of maximum fees for operations shall be determined  
78 and set forth by the industrial accident board. The  
79 employee shall have the right to choose a physician



80 of his own choice, provided that such physician is  
81 duly licensed.

82 (d) Any female employee shall be entitled to cash  
83 sickness benefits for a period of six weeks of total  
84 incapacity because of pregnancy, provided such  
85 employee has been under this act for a period of not  
86 less than ten months. Hospital benefits for such  
87 female employee shall not be greater than four  
88 dollars and seventy-five cents per day for a period  
89 up to ten days and such employee shall be allowed  
90 for obstetrical expenses not more than fifty dollars.  
91 Such employee may choose a physician of her own  
92 choice provided such physician is duly licensed.

93 *Section 5.* In order to promote the health, safety  
94 and welfare of employees, every employer under this  
95 act shall provide a system for the payment of benefits  
96 to his employees who are under this act in the follow-  
97 ing manner: —

98 (a) By furnishing the industrial accident board  
99 satisfactory proof of his financial ability to pay the  
100 benefits prescribed by this act to his employees by  
101 furnishing securities, bond or indemnity in an  
102 amount satisfactory to the industrial accident board;  
103 such employer shall be entitled to reimbursement  
104 from his employees for one half the aggregate of  
105 benefit payments by payroll deductions. The pre-  
106 mium charges for such indemnity or bond or any  
107 other form of insurance contract shall be approved  
108 by the insurance commissioner as adequate, fair and  
109 reasonable. The forms for such indemnity, bond or  
110 other insurance contract shall also be approved by  
111 the insurance commissioner; or

112 (b) By procuring an insurance policy from an in-  
113 surance company authorized to do business in this  
114 commonwealth or a contract from a non-profit hospi-

115 tal service corporation or from a medical service  
116 corporation, operating a non-profit medical service  
117 plan, in such form as may be required by the insur-  
118 ance commissioner. The employer shall be entitled  
119 to reimbursement for one half the charge for such  
120 insurance from his employees by payroll deductions.  
121 Such policy or contract shall not be effective until  
122 the charges shall be approved by the insurance com-  
123 missioner as adequate, fair and reasonable.

124 *Section 6.* An employee's right to benefits under  
125 the provisions of this act terminates on the date he  
126 severs his employment unless on that date he is  
127 suffering a disability which entitles him to the bene-  
128 fits provided herein. An employee may terminate  
129 his rights to the benefits under this act by giving  
130 to his employer a notice in writing effective upon  
131 the expiration of thirty days.

132 *Section 7.* Any employee, self-insured employer,  
133 insurance company, non-profit hospital service corpo-  
134 ration or medical service corporation operating a  
135 non-profit medical service plan may request the in-  
136 dustrial accident board for a hearing on the issue  
137 whether an employee is entitled to the benefits of  
138 the provisions of this act. Any person aggrieved by  
139 the decision of the industrial accident board may  
140 have a right of appeal to the superior court. The  
141 proceedings before the industrial accident board  
142 under this section shall be subject to all limitations  
143 of time as provided in chapter one hundred and  
144 fifty-two of the General Laws.

145 *Section 8.* The industrial accident board, the  
146 self-insured employer, the insurance company, the  
147 non-profit hospital service corporation, the medical  
148 service corporation operating a non-profit medical

149 service plan shall be entitled to a physical examina-  
150 tion of an employee receiving benefits under this act,  
151 provided that such examining physician is duly  
152 licensed.

153 *Section 9.* An employer who has been refused  
154 insurance under this act may appeal to the insurance  
155 commissioner, who shall make an equitable distribu-  
156 tion of such refused risks among insurance companies  
157 authorized to write insurance under this act.

158 *Section 10.* An individual shall be disqualified  
159 from receiving benefits during any week with respect  
160 to which he will be entitled to remuneration in the  
161 form of —

162 (a) Compensation under a workmen's compensa-  
163 tion law of any state or under a similar law of the  
164 United States.

165 (b) Primary insurance benefits under subchapter  
166 II of the Federal Social Security Act, as amended,  
167 or similar payments under any acts of congress; or

168 (c) Benefits under an unemployment compensa-  
169 tion law of any state or of the United States.

170 *Section 11.* The industrial accident board may  
171 make rules consistent with this act for the proper  
172 carrying out of its provisions.

173 *Section 12.* If an employer who is required by  
174 the provisions of this act fails to pay, or fails to  
175 provide for the payment of, any of the benefits set  
176 forth in this act, he shall be liable to an employee  
177 for double the benefits which that employee would  
178 be entitled to if the employer had complied with  
179 this act.

1 SECTION 2. Chapter 24 of the General Laws is  
2 hereby amended by adding at the end the following  
3 new section: —



4    *Section 11.* There shall be in the department and  
5 under its supervision and control, a division of sick-  
6 ness and health insurance consisting of a director  
7 who shall have charge of said division. The depart-  
8 ment, with the approval of the governor and council  
9 shall appoint said director and, with like approval,  
10 may remove said director at any time for cause.  
11 Said division shall perform such of the functions in  
12 relation to the administration and enforcement of the  
13 provisions of chapter one hundred and fifty-two A  
14 as the department may from time to time determine.  
15 The department may employ such employees to  
16 serve in said division as may be necessary.

1    SECTION 3. This act shall take effect on January  
2 first, nineteen hundred and forty-eight.

