

SENATE No. 499

To accompany the petition of Roy F. Williams that provision be made for the creation of a three-man reviewing board in the Division of Industrial Accidents. State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Five.

AN ACT PROVIDING FOR THE CREATION OF A THREE-MAN REVIEWING BOARD IN THE DIVISION OF INDUSTRIAL ACCIDENTS.

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. Section 17 of chapter 23 of the General
2 Laws, as most recently amended by section 1 of chapter
3 314 of the acts of 1953, is hereby amended by striking
4 out said section and inserting in place thereof the follow-
5 ing: —

6 *Section 17.* The governor, with the advice and con-
7 sent of the council, shall appoint a single reviewing board
8 composed of three members, all of whom shall be at-
9 torneys at law duly admitted to practice before the
10 courts of this commonwealth. Said members shall re-
11 ceive such salary, not exceeding eight thousand dollars,
12 as the governor and council shall determine. The gov-
13 ernor shall with the advice and consent of the council
14 appoint said members for terms of two, four and six
15 years respectively. All terms thereafter shall be for
16 six years and until the successor of each member whose
17 term of office expires is appointed, and has qualified.
18 All vacancies shall be filled in the same manner as ap-
19 pointments are made in the first instance. Said re-
20 viewing board shall be under the administrative super-

21 vision and control of the chairman of the division of in-
22 dustrial accidents.

1 SECTION 2. Section 29 of chapter 152 of the Gen-
2 eral Laws, as amended by section 6 of chapter 314 of
3 the acts of 1953, is hereby amended by striking out the
4 words "division or a member thereof" in line 11, and
5 the words "a member or employee of the division" in
6 line 15, and inserting in place thereof in line 11 the
7 words: — reviewing board, — and in line 15 the words:
8 — said reviewing board. The following new words
9 shall be added after the word "conference", in line 12,
10 — before said reviewing board, — so as to read:—
11 *Section 29. Waiting Period.*—No compensation shall
12 be paid for any injury which does not incapacitate the
13 employee from earning full wages for a period of at least
14 seven days. If incapacity extends for a period of eight
15 days or more, compensation shall be paid from the day
16 of injury; *provided*, that, except under section thirty-
17 five, no compensation shall be paid for any period for
18 which any wages were earned. When compensation
19 shall have begun it shall not be discontinued except
20 with the written assent of the employee. In other cases
21 the insurer shall file written application for approval
22 of discontinuance of compensation with recent medical
23 report in support thereof stating such other reason which
24 may justify such discontinuance, and such approval
25 shall only be given by the reviewing board after a con-
26 ference before said reviewing board at which the em-
27 ployee may be present or represented by counsel. Fail-
28 ure of an employee to appear at such a conference after
29 due notice thereof or report for examination by an im-
30 partial examiner if requested by said reviewing board,
31 may be deemed sufficient cause for approval of the dis-
32 continuance of compensation; *provided*, that such com-
33 pensation shall be paid in accordance with section
34 thirty-five if the employee in fact earns wages after the
35 original agreement or decision is filed.

1 SECTION 3. Section 34A of chapter 152 of the Gen-
2 eral Laws, as amended by section 2 of chapter 520 of
3 the acts of 1949, is hereby amended by striking out, in
4 line 2 of the second paragraph, the words "a member or"
5 so as to read as follows:— *Section 34A. Total and Per-*
6 *manent Incapacity.*— While the incapacity for work
7 resulting from the injury is both permanent and total
8 the insurer shall pay to the injured employee, following
9 payment of the maximum amount of compensation pro-
10 vided in sections thirty-four and thirty-five, or either
11 of them, a weekly compensation equal to two thirds of
12 the average weekly wages, but not more than thirty dol-
13 lars nor less than eighteen dollars, during the contin-
14 uance of such permanent and total incapacity. Appli-
15 cation for payments under this section may be made by
16 an injured employee before he has received the maximum
17 compensation to which he is or may be entitled under
18 the aforesaid sections.

19 In any proceeding brought by the insurer to discon-
20 tinue compensation under this section, the reviewing
21 board may, after hearing, order the insurer to continue
22 payments to the injured employee hereunder. The
23 reasonable costs of such proceeding, including therein
24 reasonable counsel fees and witness fees of physicians
25 appearing at such proceeding, shall be determined by
26 the board and shall be paid by the insurer.

1 SECTION 4. Section 48 of chapter 152 of the Gen-
2 eral Laws, as amended by section 6 of chapter 314 of
3 the acts of nineteen hundred and fifty-three, is hereby
4 further amended by striking out the word "division"
5 whenever it appears therein and substituting in place
6 thereof the words:— reviewing board.

