

# SENATE . . . . . No. 11

---

---

To accompany the petition of Frank F. Dresser that provision be made for additional methods of guaranteeing compensation under the Workmen's Compensation Act. Joint Judiciary.

---

---

## The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Twenty.

---

### AN ACT

To provide Additional Methods of guaranteeing Compensation under the Workmen's Compensation Act.

*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 two of Part V of chapter  
2 seven hundred and fifty-one of the acts of nine-  
3 teen hundred and eleven, as amended by chapter  
4 five hundred and sixty-eight of the acts of nine-  
5 teen hundred and thirteen and by chapter seven  
6 hundred and eight of the acts of nineteen hun-  
7 dred and fourteen, is hereby further amended by  
8 striking out the last paragraph and substituting  
9 the following:— "Subscriber" shall mean an  
10 employer who holds a policy issued by the asso-

11 ciation of a liability insurance company author-  
12 ized to issue policies of workmen's compensation  
13 insurance within this commonwealth, condi-  
14 tioned to pay the compensation and other bene-  
15 fits provided by Part II of this act, or an employer  
16 who holds a certificate as provided by Part VI,  
17 section two, of this act.

1 SECTION 2. Said chapter seven hundred and  
2 fifty-one of the acts of nineteen hundred and  
3 eleven and the several acts in amendment  
4 thereof and in addition thereto, is hereby  
5 amended by adding at the end thereof the fol-  
6 lowing: —

#### PART VI.

7 *Section 1.* Every employer who shall elect to  
8 become a subscriber under this act shall either  
9 insure and keep insured his liability hereunder  
10 as hereinbefore provided or shall furnish to the  
11 insurance commissioner satisfactory proof of his  
12 ability having due regard to the hazard and ex-  
13 tent of his business to pay the compensation  
14 hereunder in the amount and manner and when  
15 due as provided in this act.

16 In the latter case the employer shall file with  
17 said commissioner a statement in such form as  
18 the said commissioner shall prescribe, showing the  
19 number of his employees, the number of acci-  
20 dents in a given time, and such other facts as  
21 said commissioner shall require and shall file  
22 with the treasurer and receiver general a bond,  
23 running to the commonwealth for such amount

24 and in such form as may be approved by the  
25 insurance commissioner, conditioned upon the  
26 payment to the treasurer and receiver general of  
27 the whole or such portions of the penal sum as  
28 the insurance commissioner may from time to  
29 time direct, but in no case shall the penal sum  
30 of such bond be less than fifty thousand dollars.  
31 The bond above required shall have as surety  
32 some corporation or association approved by the  
33 insurance commissioner and engaged in the busi-  
34 ness of issuing bonds, or some corporation or  
35 association authorized to write policies of work-  
36 men's compensation insurance in this common-  
37 wealth. Any such corporation or association is  
38 hereby authorized to issue such bond.

39 In lieu of such bond or in conjunction there-  
40 with, the employer may make a deposit with the  
41 treasurer and receiver general of securities satis-  
42 factory to the treasurer and receiver general in  
43 such amounts as the insurance commissioner  
44 shall specify, to be held under a trust agree-  
45 ment, in form satisfactory to the insurance com-  
46 missioner, that, in event of the failure of the  
47 subscriber to perform the obligations assumed  
48 by him hereunder, the whole or such parts of  
49 said securities as the insurance commissioner  
50 may direct, may from time to time be sold by  
51 the treasurer and receiver general to meet such  
52 obligations. The insurance commissioner may  
53 also require the payment of the whole or portion  
54 of the penal sum of such bond or the sale of the  
55 whole or portion of such securities in case the



56 employer fails to provide the benefits required by  
57 this act. The amounts received by the treas-  
58 urer and receiver general by virtue of said bond,  
59 less expenses of collection, if any, and the pro-  
60 ceeds of the sale of said securities, less the ex-  
61 penses of liquidation, if any, shall be adminis-  
62 tered by a trust to be appointed by the indus-  
63 trial accident board, for the purpose of discharg-  
64 ing the obligations of such employer under this  
65 act. Such trustee shall give bond in an amount  
66 and with surety of sureties satisfactory to the  
67 industrial accident board conditioned upon the  
68 faithful performance of his duties. With the  
69 approval of the treasurer and receiver general  
70 other securities may from time to time be sub-  
71 stituted for those so deposited. If the market  
72 value of the deposit is at any time less than the  
73 amount specified by the insurance commissioner  
74 to be kept on deposit by the employer, the  
75 treasurer and receiver general shall notify the  
76 employer to make good the deficiency. If the  
77 employer fails so to do within ten days of such  
78 notice his delinquency shall be reported to the  
79 insurance commissioner by the treasurer and  
80 receiver general and the insurance commissioner  
81 shall revoke the employer's certificate provided  
82 for by this act. Such employer shall also insure  
83 his liability on account of his catastrophe risk,  
84 so called, in such amount as the insurance com-  
85 missioner may specify, in any corporation, asso-  
86 ciation or organization authorized to issue poli-  
87 cies of workmen's compensation insurance in this

88 commonwealth: *provided, however*, that such pro-  
89 tection may be afforded by a company not  
90 authorized to issue policies of workmen's com-  
91 pensation insurance in Massachusetts in cases  
92 where insurance in authorized companies cannot  
93 be secured for any reason satisfactory to the in-  
94 surance commissioner, but any such arrange-  
95 ment for insurance must first be approved in  
96 writing by the insurance commissioner.

97 *Section 2.* Whenever an employer has in the  
98 judgment of the insurance commissioner com-  
99 plied with the provisions of section one of this  
100 part relating to self-insurance, so called, the in-  
101 surance commissioner shall issue to such em-  
102 ployer a certificate thereof which shall remain in  
103 force for such term, not exceeding five years, as  
104 the insurance commissioner shall prescribe, un-  
105 less sooner surrendered or revoked as herein  
106 provided.

107 The insurance commissioner shall forthwith  
108 notify the industrial accident board of the issu-  
109 ance, surrender or revocation of such certificate.

110 The employer holding such certificate shall  
111 upon its issuance give notice in writing or print  
112 to all persons under contract of hire with him  
113 and shall give such notice to every person with  
114 whom he is about to enter into a contract of hire  
115 that he holds the certificate under this section  
116 and that payments to injured employees will be  
117 made under the provisions of the workmen's  
118 compensation act. If an employer ceases to  
119 hold such certificate, he shall, on or before the

120 day when he ceases to hold it, give notice thereof  
121 in writing or print to all persons under contract  
122 with him.

123 He shall file a copy of the notice with the in-  
124 dustrial accident board.

125 *Section 3.* An employer holding the certifi-  
126 cate provided for in the preceding section shall  
127 be a subscriber within the meaning of this act  
128 and shall also be liable to pay the compensation  
129 provided for by Part II of this act and be subject  
130 to the provisions of Parts I, II, III and V of this  
131 act to the same extent as the association for  
132 injuries occurring during the period that such  
133 certificate is in effect.

134 Whenever an injury to an employee has been  
135 reported, the employer holding a certificate under  
136 this act shall pay compensation for such injury,  
137 if the employee is incapacitated for a period of  
138 at least ten days from earning full wages. Such  
139 compensation shall begin on the eleventh day  
140 after the injury and shall be paid on the seven-  
141 teenth day after the injury, unless the indus-  
142 trial accident board or any member thereof shall  
143 have issued an order upon the written request  
144 of the employer suspending payment of such  
145 compensation pending an investigation to deter-  
146 mine the liability of the employer. When com-  
147 pensation shall have begun, it shall not be dis-  
148 continued, except with the written assent of the  
149 employee or the approval of the board or a mem-  
150 ber thereof: *provided, however,* that such com-  
151 pensation shall be paid in accordance with sec-



152 tion ten of Part II of said chapter seven hundred  
153 and fifty-one and acts in amendment thereof and  
154 in addition thereto, if the employee in fact earns  
155 wages at any time after the original agreement  
156 is filed.

157 *Section 4.* The insurance commissioner shall  
158 make such examinations from time to time and  
159 call for such reports as he shall deem necessary  
160 and may from time to time require the em-  
161 ployer to furnish additional security either by  
162 bond or the deposit of securities as defined in  
163 section one, or may permit the substitution of  
164 bond or securities in a lesser amount as he shall  
165 think the circumstances warrant. When the  
166 obligations of such employer shall have been  
167 paid in full, and there is no possibility of further  
168 claims arising under this act to which the bond  
169 or securities can be applied, the treasurer and  
170 receiver general shall, subject to the approval of  
171 the insurance commissioner, release said bond to  
172 the company furnishing it, or return said securi-  
173 ties to the employer, or his legal representatives,  
174 as the case may be.

175 *Section 5.* A certificate issued hereunder may  
176 be surrendered upon giving notice to the insur-  
177 ance commissioner of the date when such sur-  
178 render is to take effect.

179 The insurance commissioner may after a hear-  
180 ing, of which the employer shall have not less  
181 than ten days' notice, for cause revoke the cer-  
182 tificate, such revocation to become effective at  
183 a date fixed by said commissioner but not less

184 than five days after notice to the employer of  
185 such revocation, except that if a petition in  
186 bankruptcy has been filed by or against a sub-  
187 scriber hereunder the said commissioner may  
188 forthwith revoke said certificate.

189 Upon the expiration, surrender or revocation  
190 of such certificate the employer shall cease to be  
191 a subscriber within the meaning of the act.

192 *Section 6.* The industrial accident board shall  
193 submit a written statement of its findings to the  
194 insurance commissioner in case of intentional  
195 failure by any subscriber holding a certificate as  
196 provided by section two of this part, to make a  
197 payment provided by an order, agreement,  
198 award or decree under Part III of this act from  
199 which no claim of review or appeal is pending, or  
200 in case of any conduct found by the board to be  
201 oppressive toward an employee in connection  
202 with the carrying out of the provisions of this  
203 act, or any failure to perform in good faith the  
204 obligations assumed by the subscriber hereunder.

205 *Section 7.* For the purpose of defraying the  
206 expenses of the insurance department in admin-  
207 istering the provisions of this part, a subscriber  
208 who shall receive a certificate under section two  
209 of said part shall annually file with the insur-  
210 ance commissioner an estimate of the pay-roll  
211 of his employees for the ensuing twelve months,  
212 and shall annually pay to the treasurer and  
213 receiver general of the commonwealth one and  
214 one half cents per one hundred dollars of said  
215 estimated pay-roll. At the expiration of each



216 ensuing period of twelve months, during the  
217 period for which the certificate shall remain in  
218 force and also at such times as the certificate  
219 expires or is revoked, the subscriber shall make  
220 a return to the insurance commissioner, subject  
221 to verification by said commissioner, indicating  
222 the actual pay-roll for the period so covered.  
223 If the actual pay-roll be greater than the esti-  
224 mated pay-roll the subscriber shall thereupon  
225 pay to the treasurer and receiver general an  
226 amount equal to one and one half cents per one  
227 hundred dollars of the difference between the  
228 estimated pay-roll and the actual pay-roll. If  
229 the actual pay-roll be less than the estimated  
230 pay-roll, the treasurer and receiver general shall  
231 refund to the subscriber an amount equal to one  
232 and one half cents per one hundred dollars differ-  
233 ence between the estimated pay-roll and the  
234 actual pay-roll. The insurance commissioner  
235 shall notify the treasurer and receiver general of  
236 any amount to be collected or refunded.

237 *Section 8.* If an employer who holds or has  
238 held a certificate under this act offers a composi-  
239 tion under the federal bankruptcy act or is adju-  
240 dicated a bankrupt under said act, the total  
241 amount of compensation and other benefits for  
242 injuries occurring during the period when such  
243 certificate was in effect shall be deemed to be  
244 due and payable as of date of the offer of com-  
245 position or adjudication, and shall be entitled to  
246 priority under the terms of said acts; and if any  
247 such employer makes an assignment for the bene-

248 fit of creditors, or a receiver is appointed of any  
249 of his property or business, the said amounts  
250 shall be deemed to be debts due and payable at  
251 the time of such assignment or the appointment  
252 of such receiver, and shall be preferred as against  
253 all other unsecured claims.





