

HOUSE No. 1603

Bill accompanying the petition of Rudolph W. Currier relative to compensation for injuries received in industrial accidents. Joint Judiciary. January 23.

The Commonwealth of Massachusetts.

In the Year One Thousand Nine Hundred and Fourteen.

AN ACT

Relative to Compensation for Injuries in 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 one of part one of chapter seven
2 hundred and fifty-one of the acts of the year nineteen
3 hundred and eleven is hereby amended by inserting
4 after the last line in said section, the following:—4.
5 That the employer was not negligent,— so as to read as
6 follows:— *Section 1.* In an action to recover damages
7 for personal injury sustained by an employee in the
8 course of his employment, or for death resulting from
9 personal injury so sustained, it shall not be a defense:
10 1. That the employee was negligent;
11 2. That the injury was caused by the negligence of a
12 fellow employee;

13 3. That the employee had assumed the risk of the
14 injury ;

15 4. That the employer was not negligent.

1 SECTION 2. Section three of part two of the said
2 chapter seven hundred and fifty-one of the acts of the
3 year nineteen hundred and eleven, as amended by section
4 one of chapter five hundred and seventy-one of the acts
5 of the year nineteen hundred and twelve, is hereby fur-
6 ther amended by inserting after the word “superintend-
7 ence”, in the fourth line, the words:— or is put to
8 work on a machine known by his employer, superintend-
9 ent or foreman to be defective or dangerous, or said
10 employee is ordered to work in a dangerous pursuit not
11 then known by said employee to be dangerous,— so as
12 to read as follows:— *Section 3.* If the employee is
13 injured by reason of the serious and wilful misconduct
14 of a subscriber or of any person regularly entrusted with
15 and exercising the powers of superintendence, or is put
16 to work on a machine known by his employer, superin-
17 tendent or foreman to be defective or dangerous, or said
18 employee is ordered to work in a dangerous pursuit not
19 then known by said employee to be dangerous, the
20 amounts of compensation hereinafter provided shall be
21 doubled. In such case the subscriber shall repay to the
22 association the extra compensation paid to the employee.
23 If a claim is made under this section the subscriber shall
24 be allowed to appear and defend against such claim
25 only.

1 SECTION 3. Section four of part two of the said
2 chapter seven hundred and fifty-one of the acts of the
3 year nineteen hundred and eleven is hereby amended
4 by striking out the said section and inserting in place

5 thereof the following:— *Section 4.* No compensation
6 shall be paid under this act for any injury which does
7 not incapacitate the employee.

1 SECTION 4. Section five of part two of the said chap-
2 ter seven hundred and fifty-one of the acts of the year
3 nineteen hundred and eleven is hereby amended by
4 adding at the end thereof the following:— The indus-
5 trial accident board herein provided shall have the right
6 to require payment under this act for such medical and
7 hospital services beyond said first two weeks, in cases in
8 which in its judgment such attendance or services may
9 be considered reasonable and such medicines necessary.
10 Any physician or surgeon authorized to practise medi-
11 cine under the laws of the commonwealth or any reput-
12 able hospital may be employed for such medical services,
13 and nothing in this act nor any rule of said board or of
14 any insurer shall prevent the employee from choosing
15 such doctor or hospital himself,—so as to read as
16 follows:— *Section 5.* During the first two weeks after
17 the injury, the association shall furnish reasonable medi-
18 cal and hospital services, and medicines when they are
19 needed. The industrial accident board herein provided
20 shall have the right to require payment under this act
21 for such medical and hospital services beyond said first
22 two weeks, in cases in which in its judgment such attend-
23 ance or services may be considered reasonable and such
24 medicines necessary. Any physician or surgeon author-
25 ized to practice medicine under the laws of the common-
26 wealth or any reputable hospital may be employed for
27 such medical services, and nothing in this act nor any
28 rule of said board or of any insurer shall prevent the
29 employee from choosing such doctor or hospital himself.

1 SECTION 5. Section six of part two of said chapter
2 seven hundred and fifty-one of the acts of the year nine-
3 teen hundred and eleven as affected by section one, five
4 and seven of chapter eight hundred and seven of the
5 acts of the year nineteen hundred and thirteen is hereby
6 amended by striking out the words "one half", in the
7 fourth line, and inserting in place thereof:— sixty-five
8 per cent of,— by striking out "ten", in the fifth line,
9 and inserting in place thereof:— twelve,— and striking
10 out "four", in the sixth line, and inserting — six,— in
11 place thereof, and by striking out the word "three",
12 in the sixth line, and inserting in place thereof the
13 word:— five,— so as to read as follows:— *Section 6.*
14 If death results from the injury, the association shall
15 pay the dependents of the employee, wholly dependent
16 upon his earnings for support at the time of the injury,
17 a weekly payment equal to sixty-five per cent of his
18 average weekly wages, but not more than twelve dollars
19 nor less than six dollars a week, for a period of five
20 hundred weeks from the date of the injury. If the em-
21 ployee leaves dependents only partly dependent upon
22 his earnings for support at the time of his injury, the
23 association shall pay such dependents a weekly compen-
24 sation equal to the same proportion of the weekly pay-
25 ments for the benefit of persons wholly dependent as
26 the amount contributed by the employee to such partial
27 dependents bears to the annual earnings of the deceased
28 at the time of his injury. When weekly payments have
29 been made to an injured employee before his death, the
30 compensation to dependents shall begin from the date of
31 the last of such payments, but shall not continue more
32 than three hundred weeks from the date of the injury.

1 SECTION 6. Section nine of part two of said chapter
2 seven hundred and fifty-one of the acts of the year nine-

3 teen hundred and eleven is hereby amended by striking
4 out the words "one half", where they occur in the third
5 line, and inserting in place thereof the words:—sixty-
6 five per cent of,—by striking out the word "ten", in
7 the fourth line, and inserting in place thereof the word:
8 —twelve,—by striking out the word "four", in the
9 fifth line, and inserting in place thereof the word:—six,
10 —and by striking out the word "three", in the seventh
11 line, and inserting in place thereof the word:—six,—
12 so as to read as follows:—*Section 9.* While the in-
13 capacity for work resulting from the injury is total, the
14 association shall pay the injured employee a weekly com-
15 pensation equal to sixty-five per cent of his average
16 weekly wages, but not more than twelve dollars nor less
17 than six dollars a week; and in no case shall the period
18 covered by such compensation be greater than five hun-
19 dred weeks, nor the amount more than six thousand
20 dollars.

1 SECTION 7. Section ten of part two of said chapter
2 seven hundred and fifty-one of the acts of the year nine-
3 teen hundred and eleven is hereby amended by striking
4 out the words "one half", in the third line, and insert-
5 ing in place thereof the words:—sixty-five per cent of,
6 —by striking out the word "ten", in the sixth line,
7 and inserting in place thereof the word:—twelve,—
8 and by striking out the word "three", in the eighth
9 line, and inserting in place thereof the word:—five,—
10 so as to read as follows:—*Section 10.* While the in-
11 capacity for work resulting from the injury is partial,
12 the association shall pay the injured employee a weekly
13 compensation equal to sixty-five per cent of the differ-
14 ence between his average weekly wages before the in-
15 jury and the average weekly wages which he is able to

16 earn thereafter, but not more than twelve dollars a week ;
17 and in no case shall the period covered by such compen-
18 sation be greater than five hundred weeks from the date
19 of the injury.

1 SECTION 8. Section eleven of part two of said chap-
2 ter seven hundred and fifty-one of the acts of the year
3 nineteen hundred and eleven, as amended by section two
4 of chapter five hundred and seventy-one of the acts of
5 the year nineteen hundred and twelve, and by chapter
6 four hundred and forty-five and chapter six hundred and
7 ninety-six of the acts of the year nineteen hundred and
8 thirteen, is hereby further amended by striking out the
9 words "one half", and inserting in place thereof the
10 words :—sixty-five per cent of, — by striking out the
11 word "ten", and inserting in place thereof the word :—
12 twelve, — and by striking out the word "four" and
13 inserting in place thereof the word :—six, — in all
14 places where the same occur in the said section, and by
15 adding at the end thereof the following :— Upon the
16 loss on the part of a minor of a member or the suffering
17 by him or her of a serious impairment of like nature,
18 such sum shall be paid as will enable him or her to
19 obtain and receive a training in a self-sustaining occupa-
20 tion, such sum to be fixed by the industrial accident
21 board on due consideration of the facts of the case, — so
22 as to read as follows :— *Section 11.* In case of the
23 following specified injuries the amounts hereinafter named
24 shall be paid in addition to all other compensation :

22 (a) For the loss by severance of both hands at or
23 above the wrist, or both feet at or above the ankle, or
24 the loss of one hand and one foot, or the reduction to
25 one tenth of normal vision in both eyes with glasses,
26 sixty-five per cent of the average weekly wages of the

27 injured person, but not more than twelve dollars nor
28 less than six dollars a week, for a period of one hundred
29 weeks.

30 (b) For the loss by severance of either hand at or
31 above the wrist, or either foot at or above the ankle,
32 or the reduction to one tenth of normal vision in either
33 eye with glasses, sixty-five per cent of the average
34 weekly wages of the injured person, but not more than
35 ten dollars nor less than four dollars a week, for a period
36 of fifty weeks.

37 (c) For the loss by severance at or above the second
38 joint of two or more fingers, including thumbs, or toes,
39 sixty-five per cent of the average weekly wages of the
40 injured person, but not more than twelve dollars nor
41 less than six dollars a week, for a period of twenty-five
42 weeks.

43 (d) For the loss by severance of at least one phalange
44 of a finger, thumb, or toe, sixty-five per cent of the
45 average weekly wages of the injured person, but not
46 more than twelve dollars nor less than six dollars a week,
47 for a period of twelve weeks.

48 (e) The additional amounts provided for in this sec-
49 tion in case of the loss of a hand, foot, thumb, finger or
50 toe shall also be paid for the number of weeks above
51 specified, in case the injury is such that the hand, foot,
52 thumb, finger or toe is not lost, but is so injured as to be
53 permanently incapable of use.

54 (f) Upon the loss on the part of a minor of a member
55 or the suffering by him or her of a serious impairment of
56 like nature, such sum shall be paid as will enable him or
57 her to obtain and receive a training in a self-sustaining
58 occupation, such sum to be fixed by the industrial acci-
59 dent board on due consideration of the facts of the case.

1 SECTION 9. Section twenty-two of Part II of said
2 chapter seven hundred and fifty-one of the acts of the
3 year nineteen hundred and eleven is hereby amended by
4 striking out all after the word "of", in the third line,
5 and inserting in place thereof the following:— such sum
6 as the industrial accident board shall determine after due
7 consideration of the facts of each particular case,— so as
8 to read as follows:— *Section 22.* Whenever any
9 weekly payment has been continued for not less than
10 six months, the liability therefor may in unusual cases
11 be redeemed by the payment of such sum as the indus-
12 trial accident board shall determine after due considera-
13 tion of the facts of each particular case.

1 SECTION 10. Where the employer and employee are
2 both citizens of the commonwealth, then any employee
3 sustaining an injury while acting for his employer or
4 within the scope of his employment, even though such
5 injury was caused without the confines of the common-
6 wealth, such employee shall be entitled to compensation,
7 under the said chapter seven hundred and fifty-one of
8 the acts of the year nineteen hundred and eleven and
9 the amendments thereof and additions thereto.

1 SECTION 11. This act shall take effect on the first
2 day of September, in the year nineteen hundred and
3 fourteen.