

HOUSE No. 167

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.

The Commonwealth of Massachusetts

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

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 amended
2 by inserting after chapter 152, as appearing in the
3 Tercentenary Edition, the following new chapter: —

4 CHAPTER 152A.

5 VOLUNTARY SYSTEM FOR THE PAYMENT OF HOSPITAL,
6 SURGICAL OPERATION, SICKNESS, BODILY INJURY
7 AND MATERNITY BENEFITS TO EMPLOYEES.

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

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

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

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

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

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

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

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

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

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

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

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

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

111 (b) By procuring an insurance policy from an in-
112 surance company authorized to do business in this

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

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

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

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

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

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

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

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

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

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

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

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

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 fifty.

