

WORKMEN'S COMPENSATION

CHAPTER 351

H. B. No. 818
(Gray, Trydahl, Simenson, Siverson)

APPOINTMENT OF BOILER INSPECTOR BY WORKMEN'S COMPENSATION BUREAU; DUTIES; APPROPRIATION

AN ACT

Providing for the appointment of a boiler inspector by the workmen's compensation bureau; the inspection of certain boilers; providing for fees for inspection of same; and making an appropriation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. BOILER INSPECTION APPOINTMENT.) The commissioners of the North Dakota workmen's compensation bureau shall appoint a boiler inspector who shall hold office at the will of the bureau.

§ 2. QUALIFICATIONS OF BOILER INSPECTOR.) No person shall be eligible to the office of boiler inspector unless he:

1. Has had at least ten years experience in the construction, maintenance or repair of high pressure boilers as a mechanical engineer, steam engineer, boilermaker or boiler inspector within five years immediately preceding his appointment.
2. Shall hold a certificate of competency issued by the national board of boiler and pressure vessel inspectors or shall obtain such certificate within one year after date of appointment by the bureau.
3. Shall not be directly or indirectly interested in the manufacture or sale of boilers or steam machinery or articles used in the construction or maintenance of engines or boilers.

§ 3. DUTIES OF INSPECTOR.) It shall be the duty of the inspector to

1. Inspect all boilers in the state as required in section 4 to insure the safe operation of same.

2. Issue, suspend, or revoke for cause, inspection certificates as provided in section 6.
3. Keep a complete record of the type dimensions, maximum allowable working pressure, age, condition, location and date of the last recorded internal and external inspection of boilers to which this Act applies.
4. Cooperate and assist in all accident prevention programs sponsored by the workmen's compensation bureau.

§ 4. GENERAL REQUIREMENT.) Every boiler used or destined to be used in any establishment in this state shall be so constructed and maintained as to safely sustain the pressure at which said boiler is designed and intended to operate. Nothing in this act shall be construed to apply to:

1. Boilers subject to federal inspection.
2. Boilers located on farms.
3. Boilers carrying a pressure of less than fifteen pounds per square inch which are equipped with safety devices approved by the bureau unless located in theatres, schools, hospitals or public buildings.
4. Hot water heating boilers carrying a pressure of no more than 30 pounds per square inch gauge.
5. Portable steam cleaners of the type in common use in garages.

§ 5. INSPECTION OF INSURED BOILERS.) If a boiler is insured by a company authorized to insure boilers in this state against loss from explosion, the inspection may be made by a qualified inspector of such company providing a complete report of such inspection is filed with the bureau on American society of mechanical engineers forms within 15 days of inspection.

§ 6. CERTIFICATE OF INSPECTION.) A certificate of inspection for each boiler inspected shall be issued by the bureau upon payment direct to the bureau of a fee of two dollars. Such inspection certificate shall be valid for a period of not more than fourteen (14) months. No certificate of inspection shall be issued for any boiler not in a safe condition to be operated. The inspection fees for the inspection of non insured boilers must be paid before a certificate of inspection is issued.

§ 7. CERTIFICATE TO BE POSTED.) Each certificate of inspection shall be posted conspicuously in the boiler room or adjacent to such boiler.

§ 8. CONSTRUCTION OF BOILERS.) The bureau shall promulgate rules and regulations for the safe and proper installation use and operation of boilers subject to this act.

§ 9. MANUFACTURER'S DATA REPORT.) The manufacturer must provide the bureau with manufacturer's data report. This data sheet together with the stamp on the boiler shall be the record denoting that the boiler has been constructed in accordance with the rules and regulations as specified in section 7, signed by an authorized inspector.

§ 10. INSPECTION OF BOILERS.) On and after July 1, 1953, each boiler used or proposed to be used within this state, except boilers exempt in section 4 of this act, shall be thoroughly inspected as to their construction, installation, condition and operation as follows:

1. Power boilers shall be inspected annually both internally and externally while not under pressure and shall also be inspected annually externally while under pressure if possible.
2. Low pressure heating boilers shall be inspected both internally and externally biennially where construction will permit; provided that a grace period of two (2) months longer than the twenty-four (24) months period may elapse between internal inspection of a boiler while not under pressure or between external inspections of a boiler while under pressure.

§ 11. INSPECTION FEES.) The owner or user of a boiler required by this act to be inspected by the boiler inspector, shall pay to the bureau, upon completion of inspection, fees in accordance with the following schedule: power boilers internal inspections boilers of five (5) horse power or less, or fifty (50) square feet of heating surface . . . five dollars. Boilers over five horse power or over fifty square feet of heating surface . . . ten dollars. Water tube boilers, two thousand five hundred square feet heating surface or over . . . twelve dollars.

EXTERNAL INSPECTIONS

Boilers over fifty square feet of heating surface....three dollars
Low pressure heating boilers:
Inspection of heating boilers.....three dollars
Water tube boilers, two thousand five hundred
square feet heating surface or over.....three dollars
Not more than fifteen dollars shall be charged or collected
for any and all inspections, as above, of any boiler in any one
year.

§ 12. DISPOSITION OF FUNDS.) All funds collected and received under this act shall be paid to the state treasurer and deposited to the credit of the workmen's compensation bureau fund.

§ 13. BOILER INSPECTOR TO FURNISH BOND.) The boiler inspector shall furnish a bond in the sum of two thousand dollars conditioned upon the faithful performance of his duties.

§ 14. APPROPRIATION.) There is hereby appropriated out of the moneys in the workmen's compensation bureau fund the sum of twenty thousand dollars, or so much thereof as may be necessary for the purpose of carrying out the provisions of this act, for the biennium beginning July 1, 1953 and ending June 30, 1955.

§ 15. REPEALING CLAUSE.) All acts and parts of acts inconsistent with any provisions of this act are hereby repealed to the extent of such inconsistency.

§ 16. CONSTITUTIONALITY OF ACT.) The fact that any section, subsection, sentence, clause, or phrase of this act is declared unconstitutional or invalid for any reason shall not affect the remaining portions of this Act.

Approved March 21, 1953.

CHAPTER 352

H. B. No. 710

(Anderson of Ransom, and Crothers)

WORKMEN'S COMPENSATION PREMIUM PAYMENTS; MAXIMUM REMUNERATION FOR COMPUTING PREMIUMS

AN ACT

To amend and reenact section 65-0404 of the 1949 Supplement to the North Dakota Revised Code of 1943, as amended by section 2 of chapter 344 of the 1951 Session Laws, relating to employer's obligation to pay premiums; determination of premiums and providing for maximum remuneration upon which premiums may be computed; premiums, receipts, and certificates to be mailed.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.)

65-0404. EMPLOYERS OBLIGATED TO PAY PREMIUMS: DETERMINATION OF PREMIUMS; PREMIUM RECEIPTS AND CERTIFICATES TO BE MAILED.) Each employer subject to the provisions of this title shall pay into the fund annually the amount of premiums determined and fixed by the bureau for the employment or occupation of such employer, which amount shall be determined by the classifications, rules, and rates made

and published by the bureau and shall be based on a proportion of the annual expenditure of money by such employer for the service of persons subject to the provisions of this title; provided, however, that the computation of such premiums shall not be based upon any premium wages in excess of the basic hourly rate of pay or any annual remuneration, in whatever form, in excess of the sum of thirty-six hundred dollars paid to any employee by any employer. A receipt or certificate specifying that such payment has been made shall be mailed to such employer by the bureau immediately after such payment is made, and such receipt or certificate, attested by the seal of the bureau, shall be prima facie evidence of the payment of the premium. The bureau shall provide that premiums to be paid by common school districts fall due at the end of the fiscal year of such common school districts and may make provisions so that premiums of other employers fall due on different dates to the end that the business of the bureau may be distributed as evenly as possible throughout the year.

Approved March 10, 1953.

CHAPTER 353

S. B. No. 83
(Rue)

ALLOWANCES; PREMIUMS, ETC.; WORKMEN'S COMPENSATION

AN ACT

To amend and reenact section 1 of chapter 344 of the 1951 Session Laws of North Dakota; section 5 of chapter 344 of the 1951 Session Laws of North Dakota; section 6 of chapter 344 of the 1951 Session Laws of North Dakota; section 7 of chapter 344 of the 1951 Session Laws of North Dakota; section 65-0514 of the North Dakota Revised Code of 1943; section 65-0515 of the North Dakota Revised Code of 1943; section 65-0517 of the 1949 Supplement to the North Dakota Revised Code of 1943, pertaining to workmen's compensation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 1 of chapter 344 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

65-0214. BUREAU TO AID IN REHABILITATING PERSONS INJURED IN EMPLOYMENT.) The bureau shall cooperate with such

federal department or agency as shall be charged with vocational education and vocational rehabilitation to the ends that persons injured in the course of employment may be restored to industry and that industrial cripples may obtain training, education, and employment. An allowance for dependents of not to exceed twenty-five dollars per week for a maximum of seventy-two weeks may be paid from the fund during the rehabilitation period.

§ 2. AMENDMENT.) Section 5 of chapter 344 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

65-0509. TOTAL DISABILITY; WEEKLY AND AGGREGATE COMPENSATION.) If the injury causes temporary or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to eighty per cent of his weekly wage adjusted to the next highest multiple of twenty-five cents, subject to the maximum and minimum limitations contained in section 65-0511. In case of temporary or permanent total disability, there shall be paid to such disabled employee an additional sum of two dollars and eighty cents per week for each dependent child under the age of eighteen years, and for each child over eighteen years and incapable of self-support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the children may be made direct to either parent at the discretion of the bureau. In no event shall the total weekly payment to the totally disabled employee exceed the sum of forty-five dollars and fifty cents per week, and in no case shall the compensation and dependency award exceed the actual wage of the disabled employee except in those cases on which the minimum compensation award is applied.

§ 3. AMENDMENT.) Section 6 of chapter 344 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

65-0511. MAXIMUM AND MINIMUM COMPENSATION ALLOWANCES; TOTAL AND PARTIAL DISABILITY.) The weekly compensation for total disability shall not be more than thirty-one dollars and fifty cents, except where an allowance for dependents is made in compliance with section 65-0509, nor less than fifteen dollars. This provision shall be applicable to all permanent total disability awards from the effective date of this act. The weekly compensation for partial disability shall not be more than thirty-one dollars and fifty cents. If the injured person, at the time of the injury, was a minor or was employed in a learner's capacity, and was not physically or mentally

defective, the bureau from time to time shall determine the probable increase in weekly earning capacity of such person if such injury had not occurred, and shall base its award for compensation upon such probable weekly wage-earning capacity.

§ 4. AMENDMENT.) Section 7 of chapter 344 of the 1951 session laws of North Dakota is hereby amended and reenacted to read as follows:

65-0513. SCHEDULED INJURIES; PERMANENT LOSS OF MEMBER; WEEKLY COMPENSATION; TIME COMPENSATION PAYABLE.) If the injury causes the loss of a member, the fund shall pay to the disabled employee a weekly compensation equal to twenty-two dollars per week for the following periods:

1. For loss of arm at shoulder.....250 weeks;
2. For loss of arm at or above elbow.....220 weeks;
3. For loss of hand at or above wrist.....200 weeks;
4. For loss of thumb..... 65 weeks;
5. For loss of second or distal phalange of thumb 28 weeks;
6. For loss of first finger..... 40 weeks;
7. For loss of middle or second phalange of first finger 28 weeks;
8. For loss of third or distal phalange of first finger 22 weeks;
9. For loss of second finger..... 30 weeks;
10. For loss of middle or second phalange of second finger 22 weeks;
11. For loss of third or distal phalange of second finger 14 weeks;
12. For loss of third finger..... 20 weeks;
13. For loss of middle or second phalange of third finger..... 16 weeks;
14. For loss of third or distal phalange of third finger 10 weeks;
15. For loss of fourth finger..... 16 weeks;
16. For loss of middle or second phalange of fourth finger 12 weeks;

17. For loss of third or distal phalange of fourth finger 6 weeks;
18. For loss of leg at hip.....234 weeks;
19. For loss of leg at or above knee.....195 weeks;
20. For loss of foot at or above ankle.....150 weeks;
21. For loss of great toe..... 30 weeks;
22. For loss of second or distal phalange of great toe 18 weeks;
23. For loss of any other toe..... 12 weeks;
24. For loss of middle or second phalange of any other toe..... 10 weeks;
25. For loss of third or distal phalange of any other toe 7 weeks;
26. For loss of an eye.....150 weeks;
27. For loss of hearing in one ear..... 50 weeks;
28. For loss of hearing in both ears.....200 weeks;

The amount paid for the loss of more than one finger of one hand shall not exceed the amount provided in this schedule for the loss of a hand. For the loss of the metacarpal bone, of the palm, together with the corresponding thumb or finger ten weeks shall be added to the number of weeks of payment. The permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg, or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, arm, hand, foot, leg or eye, and compensation for partial loss of use of said parts shall be allowed on a percentage basis. Twenty-five per cent additional shall be allowed as compensation for the loss of use of the master hand or any member or members thereof. The loss of use on a percentage basis of the master hand or any member or members thereof, or the amputation of the master hand or any member or members thereof. The loss of any part of a phalange shall be considered equal to the loss of the entire phalange. If any employee dies, the right of any compensation payable under section 65-0512 of this section, unpaid at the date of his death shall survive and pass to his dependent spouse, minor children or parents.

§ 5. AMENDMENT.) Section 65-0514 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0514. SCHEDULED INJURIES; PERMANENT PARTIAL LOSS OR USE OF MEMBER; WEEKLY COMPENSATION; TIME COMPENSATION PAYABLE.) If an injury causes the permanent partial loss of the

use of a member or of the sight of an eye, the fund shall pay to the disabled employee a weekly compensation for that proportion of the number of weeks specified in the schedule in section 65-0513 for the loss of such member or of the sight of an eye, which the partial loss of the use thereof bears to the total loss of the use of such member or eye.

§ 6. AMENDMENT.) Section 65-0515 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0515. AGGRAVATION OF INJURY OR DISEASE; COMPENSATION AND BENEFITS NOT PAID FOR PREEXISTING CONDITION.) In case of aggravation of an injury or disease existing prior to a compensable injury, compensation, medical, hospital or funeral expenses, or death benefits, shall be allowed by the bureau and paid from the fund only for such proportion of the disability, death benefits, or expense arising from the aggravation of such prior disease or injury as reasonably may be attributable to such compensable injury. But any compensation paid on the basis of aggravation shall not be less than ten dollars per week unless the actual wages of claimant shall be less than ten dollars, in which event the actual wages shall be paid in compensation.

§ 7. AMENDMENT.) Section 65-0517 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0517. WEEKLY COMPENSATION FOR DEATH.) If death results from an injury under the conditions specified in section 65-0516, the fund shall pay to the following persons, for the periods specified, a weekly compensation equal to the following percentages of the deceased employee's weekly wages:

1. To the widow, if there is no child, forty-five per cent, and such compensation shall be paid until her death or remarriage;
2. To the widower, if there is no child, forty-five per cent if he was wholly dependent upon the support of the deceased employee at the time of her death, and such compensation shall be paid until his death or remarriage;
3. To the widow or widower, if there is a child, the compensation payable under subsections 1 or 2, and in addition thereto, ten per cent for each child. Such compensation, however, shall not exceed a total of seventy-five per cent for the widow or widower and the children.

The compensation payable on account of any child shall cease when such child dies, marries, or reaches the age

of eighteen years, or, if over eighteen years of age and incapable of self-support, becomes capable of self-support;

4. To the children, if there is no widow or widower, twenty-five per cent for one child and ten per cent additional for each additional child, not exceeding, however, a total of seventy-five per cent. The compensation hereunder shall not be for the specific children but shall be divided share and share alike. Compensation for each child shall be paid until such child dies, marries, or reaches the age of eighteen years, or, if over eighteen years of age and incapable of self-support, becomes capable of self-support. Compensation for a child under legal age shall be paid to its guardian;
5. To the parent, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, twenty-five per cent; if both are wholly dependent, twenty per cent to each; if one or both are partially dependent, a proportionate amount in the discretion of the bureau. The foregoing percentages shall be paid only if there is no widow, widower, or child. If there is a widow, widower or child, there shall be paid only such part of the foregoing percentages that, when added to the total of the percentages payable to the widow, widower, and children, the sum shall not exceed the total of seventy-five per cent. The compensation of each such beneficiary may continue until such parent dies, remarries or ceases to be a dependent.
6. To a brother, sister, grandparent, or grandchild who is wholly dependent upon the deceased employee for support at the time of his death, twenty per cent; if more than one are wholly dependent, thirty per cent divided among such dependents, share and share alike; if none of them are wholly dependent but one or more are partly dependent, ten per cent divided among such dependents, share and share alike. The foregoing percentages shall be paid only if there is no widow, widower, child or dependent parent. If there is a widow, widower, child or dependent parent, there shall be paid only such part of the foregoing percentages that, when added to the total percentages payable to the widow, widower, children, and dependent parents, the sum shall not exceed a total of seventy-five per cent. The compensation of each such beneficiary shall be paid for a period of eight years from the time of the death of the employee unless before that time, he, if a grandparent, dies, remarries, or ceases to be

dependent, or if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen years, or if over eighteen years of age and incapable of self-support, becomes capable of self-support. The compensation of a brother, sister, or grandchild under legal age shall be paid to his guardian.

The weekly wages of the deceased employee shall be considered to have been not more than forty dollars, and not less than thirty dollars. The increase in payments resulting from the enlargement of the salary base shall be payable to all pensioners and dependents but only from and after the taking effect of this act.

In addition to the awards made to a pensioner herein the commissioners shall make an award in the sum of three hundred dollars to the widow of the deceased and one hundred dollars to each dependent child, the total amount of such additional award not to exceed six hundred dollars, and such additional award shall be charged to the general fund. This paragraph shall apply only to claims filed from and after the taking effect of this act.

Approved March 20, 1953.