

WORKMEN'S COMPENSATION

CHAPTER 750

HOUSE BILL NO. 1303
(Representatives Graba, Schneider, Frey)
(Senator Ingstad)

FIREMEN'S OCCUPATIONAL CANCER

AN ACT to amend and reenact subdivision d of subsection 12 of section 65-01-02 of the North Dakota Century Code, relating to definition of diseases fairly traceable to employment under the workmen's compensation law.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Subdivision d of subsection 12 of section 65-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Provided However, any condition or impairment of health of a full-time paid fireman or law enforcement officer caused by lung or respiratory disease, hypertension, or heart disease, or occupational cancer in a full-time paid fireman, resulting in total or partial disability or death shall be is presumed to have been suffered in the line of duty and shall. The condition or impairment of health may not be attributed to any disease existing prior to such before that total or partial disability or death unless the contrary be is shown by competent evidence; provided, further, that such. As used in this subdivision, an occupational cancer is one which arises out of employment as a full-time paid fireman and is due to injury due to exposure to smoke, fumes, or carcinogenic, poisonous, toxic, or chemical substances while in the performance of active duty as a full-time paid fireman. A full-time paid fireman or law enforcement officer shall have is not eligible for the benefit provided under this subdivision unless that full-time paid fireman or law enforcement officer has completed two years of continuous service and have has successfully passed a physical examination which examination fails to reveal any evidence of such a condition.

Approved April 9, 1987
Filed April 9, 1987

* NOTE: Section 65-01-02 was also amended by section 3 of House Bill No. 1304, chapter 298.

CHAPTER 751

SENATE BILL NO. 2267
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

WORKERS COMPENSATION BUREAU

AN ACT relating to changing the name of the workmen's compensation bureau of North Dakota to the workers compensation bureau.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. Workers compensation bureau. The North Dakota legislative council is hereby authorized to delete, where appropriate, "workmen's compensation bureau" wherever it appears in the North Dakota Century Code or in the supplements thereto and to insert in lieu of each deletion "workers compensation bureau". Such changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. It is the intent of the legislative assembly that the workers compensation bureau shall be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the workmen's compensation bureau.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 752

SENATE BILL NO. 2232
(Committee on Judiciary)

(At the request of the Workmen's Compensation Bureau)

WORKMEN'S COMPENSATION ATTORNEYS' FEES

AN ACT to amend and reenact section 65-02-08 of the North Dakota Century Code, relating to payment of attorney's fees in workmen's compensation proceedings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-02-08. Rulemaking power of the bureau - Fees prescribed by bureau. The bureau shall make, promulgate, and enforce such rules, not inconsistent with the provisions of this title, as may be necessary to carry out the provisions of this title. All fees on claims for legal, medical, and hospital services rendered under this title to any claimant shall be in accordance with schedules of fees adopted or to be adopted by the bureau. The bureau shall specify the amount allowable for court reporter and attorney's fees in proceedings before the bureau and shall pay the same from the bureau general fund, provided further that proceedings are defined as commencing after action by the bureau which reduces or denies a claim. Such attorney's fees shall constitute the entire remuneration for the claimant's attorney for all services before the bureau. Nothing provided herein shall be construed to prevent a claimant or employer from hiring or paying his or her own attorney.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 753

SENATE BILL NO. 2132
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

**WORKMEN'S COMPENSATION DEPENDENCY
BENEFITS**

AN ACT to amend and reenact section 65-05-09 of the North Dakota Century Code, relating to an increase in workmen's compensation weekly dependency benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-09. Temporary total or permanent total disability - Weekly and aggregate compensation. If an injury causes temporary total or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of the weekly wage of the claimant, computed to the next highest dollar, subject to a minimum of sixty percent and a maximum of one hundred percent of the average weekly wage in this state, computed to the next highest dollar. If an employee is disabled due to an injury, that employee's benefits will be based upon the wage at the time of the commencement of the first disability. However, if an employee suffers disability but is able to return to employment for a period of twelve months or more, that employee's benefits will be based upon the wage in effect at the time of the recurrence of the disability or upon the wage that employee received prior to the injury, whichever is higher; and the benefits shall be those in effect at the time of that recurrence. In case of temporary total or permanent total disability, there shall be paid to such disabled employee an additional sum of five ten dollars per week for each child of the employee. Dependency awards for the children may be made directly to either parent or guardian at the discretion of the bureau. In no case shall the compensation or combined compensation and dependency award exceed the weekly wage of the employee after deductions for taxes, except in the case of volunteer firemen and volunteer disaster emergency trainees. When an employee who is permanently and totally disabled and must be maintained in a nursing home or similar facility has no dependent parent, spouse, or children, part or all of his weekly compensation may be used by the bureau to help defray the cost of such care.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 754

SENATE BILL NO. 2229
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

WORKMEN'S COMPENSATION DEATH BENEFITS

AN ACT to amend and reenact section 65-05-17 of the North Dakota Century Code, relating to the removal of a cap on workmen's compensation death benefits; and to provide for retroactive application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-17. Weekly compensation allowances for death claims. If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified, a weekly compensation:

1. To the spouse or guardian of the orphaned child or children of the decedent, an amount equal to two-thirds of the weekly wage of the deceased, not to exceed two hundred ten dollars per week, until the death or remarriage of the spouse; or, in the case of a guardian, until the orphaned child or children of the decedent no longer meets the definition of child in this title. Where there is more than one orphaned child of a decedent, death benefits shall be divided equally among guardians. In no case shall total death benefits be less than fifty percent of the maximum weekly death benefits. In no case shall total death benefits exceed one hundred ~~seventy-five~~ ninety-seven thousand dollars as a result of any employee's death.
2. To each child of the deceased employee, the amount of seven dollars per week. The bureau, in its discretion, may make this payment directly to the child of the deceased employee or to the surviving parent or guardian of the child.

In addition to the awards herein, the commissioners shall make an award in the sum of three hundred dollars to the spouse or guardian of the orphaned child or children of the deceased and one hundred dollars for each dependent child. Where there is more than one guardian of orphaned children, the three hundred dollars shall be divided equally among the guardians.

SECTION 2. RETROACTIVE APPLICATION OF ACT. This Act applies retroactively to cases arising after June 30, 1983.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 755

SENATE BILL NO. 2131
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

ASSIGNMENT OF WORKMEN'S COMPENSATION CLAIMS

AN ACT to amend and reenact section 65-05-29 of the North Dakota Century Code, relating to assignment of claims.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-29. Assignment of claims void - Claims exempt. Any assignment of a claim for compensation under this title shall be void. All compensation and claims therefor shall be exempt from ~~all~~ claims of creditors except either of the following:

1. A child support obligation ordered by a court of competent jurisdiction.
2. A claim by job service North Dakota for reimbursement of unemployment benefits, for the amount that was paid by job service during the period for which the claimant is found eligible for temporary total, or permanent total disability benefits, not to exceed the disability award actually made by the bureau.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 756

HOUSE BILL NO. 1187
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

VOCATIONAL REHABILITATION BENEFITS

AN ACT to amend and reenact section 65-05.1-06 of the North Dakota Century Code, relating to limiting vocational rehabilitation benefits to two years, except in extraordinary circumstances, and to relocation and remodeling expense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05.1-06. Rehabilitation allowance. In the event of a contract as provided in section 65-05.1-05, the bureau, in lieu of temporary total, temporary partial, and permanent total benefits may award a rehabilitation allowance to any claimant in order to effect the purpose of the contract. The rehabilitation allowance shall be limited to the amount and purpose specified in the rehabilitation contract but shall not exceed an amount equal to ~~the same amount of two years'~~ weekly compensation and dependent benefits ~~that the claimant is entitled to receive~~ plus twenty-five percent, ~~except in cases of catastrophic injury in which case additional rehabilitation benefits may be awarded in the discretion of the commissioners.~~ Catastrophic injury is defined as an acute disabling injury rendering a worker permanently and totally disabled that requires rehabilitation services in order to return the worker to gainful employment. In the event the claimant successfully concludes the terms of the contract, additional awards, not to exceed a total of five ten thousand dollars for the life of the claimant, regardless of any subsequent claim, can be made for the actual expenses of relocation or remodeling of living and business facilities as the claimant's condition may require.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 757

HOUSE BILL NO. 1305
(Representatives Graba, Haugland, Frey)
(Senators Schoenwald, Stenehjem)

**WORKMEN'S COMPENSATION SUPPLEMENTAL
BENEFITS**

AN ACT to amend and reenact section 65-05.2-02 of the North Dakota Century Code, relating to supplementary workmen's compensation benefits; and to provide for application of this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-05.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05.2-02. **Supplementary benefits - Amount.** Claimants who are eligible for supplementary benefits and who are receiving temporary total disability benefits or permanent total disability benefits ~~shall~~ are entitled to receive a weekly benefit in an amount not less than of at least one hundred ~~forty-three~~ fifty dollars per week. Claimants who are eligible for supplementary benefits and who are receiving death benefits ~~shall~~ are entitled to receive a weekly benefit in an amount not less than eighty-four of at least ninety dollars per week.

SECTION 2. APPLICATION OF ACT. This Act applies to benefits payable after June 30, 1987.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 758

HOUSE BILL NO. 1235
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

BOILER INSPECTOR COMMISSIONS

AN ACT to amend and reenact section 65-12-05 of the North Dakota Century Code, relating to special boiler inspector commissions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-05. Special inspector commission. Upon the written request of-

- 1- Any insurance company authorized to insure boilers in this state against loss from explosion, or
- 2- Any self-insured company who has employees for the purpose of inspecting its own boilers in this state, a

1. A special inspector commission may be issued by the bureau to an inspector in the employ of said a company listed in subdivision a or b, provided that such inspector shall have previously passed the examination prescribed by the national board of boiler and pressure vessel inspectors, upon the written request of:

a. Any insurance company authorized to insure boilers in this state against loss from explosion.

b. Any self-insured company that has employees for the purpose of inspecting its own boilers in this state.

2. All inspections made by a special inspector must be performed in accordance with this chapter and a complete report of such inspections must be filed with the bureau in the time, manner, and form as prescribed by the bureau.

3. If a complete report is not filed with the bureau within ninety days from the certificate due date, the chief boiler inspector may make the required inspections, and a special inspection fee as determined by the bureau for each boiler inspected, plus reasonable costs of mileage, meals, and hotel expenses incurred must be charged to the insurance company or self-insured company insuring the boilers, unless extensions of time are granted by the chief boiler inspector. Any special inspection fee assessed cannot exceed one hundred eighty-five dollars per day or one hundred dollars per half day of four hours or less for boiler inspection activities, plus payment for mileage, meals, and hotel expenses as allowed by section 44-08-04 and 54-06-09.
4. The chief boiler inspector may, at his discretion, inspect any boiler to which a special inspector commission applies.
5. The bureau may, for cause, suspend or revoke any special inspector commission.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 759

SENATE BILL NO. 2170
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

BOILER INSPECTION FEES

AN ACT to amend and reenact section 65-12-11 of the North Dakota Century Code, relating to boiler inspection fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-12-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-12-11. **Inspection fees.** The owner or user of a boiler required by this chapter to be inspected by the boiler inspector, shall pay to the bureau, upon completion of inspection, fees, or a combination of fees, which shall be determined annually by the bureau. The bureau may determine and annually adjust a fee scale for the internal inspection of power boilers, internal inspections of low pressure heating boilers, external inspections of all boilers, and inspection of boilers used exclusively for exhibition purposes.

Not more than ~~thirty-five~~ seventy-five dollars may be charged or collected for any and all inspections of any boiler in any one year except for special inspections made upon request. All other inspections made by the boiler inspector including shop inspections and special inspections when requested by the owner or user of a boiler, shall be charged for according to the current fee scale applicable to an internal inspection plus any additional expenses incurred in connection with the inspection.

The bureau shall charge a fee of ~~three ten~~ dollars for each certificate of inspection issued as the result of inspections authorized under section 65-12-05. The fees are the liability of the insurance company or self-insured company and shall be paid in accordance with rules established by the bureau.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 760

SENATE BILL NO. 2269
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

CRIME VICTIMS REPARATIONS AWARDS

AN ACT to amend and reenact subdivision c of subsection 4 and subdivision a of subsection 6 of section 65-13-03, and subsections 2 and 8 of section 65-13-06 of the North Dakota Century Code, relating to awards and limitations of crime victims reparations; and to repeal subsection 7 of section 65-13-06 of the North Dakota Century Code, relating to the minimum economic loss for crime victims reparations awards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision c of subsection 4 of section 65-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. Is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct was a minor or lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle except when intended to cause personal injury or death or the board determines that such conduct arose out of the use of intoxicating liquor or controlled substances as provided in section 39-08-01 or was followed by failure to give information and render aid as provided in sections 39-08-04 and 39-08-06.

SECTION 2. AMENDMENT. Subdivision a of subsection 6 of section 65-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations required due to the injury, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment

and care. The term includes a total charge not in excess of ~~five~~ fifteen hundred dollars for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required.

SECTION 3. AMENDMENT. Subsections 2 and 8 of section 65-13-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Reparations may not be awarded unless the claim is filed with the board. A claim for reparations must be filed within one year after the date of injury or death upon which the claim is based. When the board cannot determine with certainty the date of injury, then the date of injury is the first date that a reasonable person should have known that the injury resulted from criminally injurious conduct. The board may extend the time for filing when it determines that the interests of justice otherwise require. There is no appeal from a board decision not to extend the filing time, reopen, or reinvestigate a claim.
8. Reparations for work loss, replacement services loss, dependent's economic loss, and dependent's replacement services loss may not exceed ~~two~~ three hundred dollars per week.

SECTION 4. REPEAL. Subsection 7 of section 65-13-06 of the North Dakota Century Code is hereby repealed.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 761

HOUSE BILL NO. 1210
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

CRIME VICTIMS REPARATIONS BENEFITS

AN ACT to amend and reenact subsection 3 of section 65-13-06 of the North Dakota Century Code, relating to awards and limitations of crime victims reparations when the offender lives in the same household as the victim.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 65-13-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Reparations may not be awarded to a claimant who is the offender or an accomplice of the offender, nor to any claimant if the award would unjustly benefit the offender or accomplice. Unless the board determines that the interests of justice otherwise require in a particular case, reparations may not be awarded to the spouse of, or a person living in the same household with, the offender or his accomplice or to the parent, child, brother, or sister of the offender or his accomplice.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 762

HOUSE BILL NO. 1565
(Kloubec)

HAZARDOUS SUBSTANCE INFORMATION

AN ACT to create and enact a new section to chapter 65-14 of the North Dakota Century Code, relating to jurisdiction of the employee information program; and to repeal subsection 6 of section 65-14-02 of the North Dakota Century Code, relating to jurisdiction of the employee information program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 65-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

Federally regulated employer exempt from chapter. This chapter does not apply to an employer that is regulated under any federal law that requires employee information programs dealing with hazardous substances. This chapter does not preclude the bureau from conducting normal safety inspections as otherwise provided by law.

SECTION 2. REPEAL. Subsection 6 of section 65-14-02 of the North Dakota Century Code is hereby repealed.

Approved March 20, 1987
Filed March 23, 1987