

CHAPTER 84.

[H. B. 16.]

INDEPENDENT CONTRACTORS UNDER WORKMEN'S COMPENSATION ACT.

AN ACT relating to the compensation of injured workmen and their dependents, providing for the liability of employers in certain cases, and amending section 18 of chapter 74 of the Laws of 1911, page 367.

*Be it enacted by the Legislature of the State of Washington:*

Pierce's Code, § 3486.

SECTION 1. That section 18 of chapter 74 of the Laws of 1911, page 367, as amended by section 1 of chapter 67 of the Laws of 1919, pages 134-135, (Rem. Com. Stat., 7693) be amended to read as follows :

Interstate and intrastate railway employees.

Section 18. Inasmuch as it has proved impossible in the case of employes of common carriers by railroad, engaged in maintenance and operation of railways doing interstate, foreign and intrastate commerce, and in maintenance and construction of their equipment, to separate and distinguish the connection of such employes with interstate or foreign commerce from their connection with intrastate commerce, and such employes have, in fact, received no compensation under this act, the provisions of this act shall not apply to work performed by such employes in the maintenance and operation of such railroads or performed in the maintenance or construction of their equipment, or to the employes of such common carriers by railroad engaged therein, but nothing herein shall be construed as excluding from the operation of this act railroad construction work, or the employes engaged thereon: *Provided, however,* That common carriers by railroad engaged in such interstate or foreign commerce and in intrastate commerce shall, in all cases where liability does not exist under the laws of the United States, be liable in damages to any person suffering injury

Liability in absence of federal legislation.

while employed by such carrier, or in case of the death of such employe, to his surviving wife and child, or children, and if no surviving wife or child or children, then to the parents, sisters, or minor brothers, residents of the United States at the time of such death, and who were dependent upon such deceased for support, to the same extent and subject to the same limitations as the liability now existing, or hereafter created, by the Laws of the United States governing recoveries by railroad employes injured while engaged in interstate commerce: *Provided, further, however,* That if any interstate common carrier by railroad shall also be engaged in one or more intrastate enterprises or industries (including street railways and power plants) other than its railroad, the foregoing provisions of this section shall not exclude from the operation of the other sections of this act or bring under the foregoing proviso of this section any extra hazardous work of such other enterprise or industry, the payroll of which may be clearly separable and distinguishable from the payroll of the maintenance or operation of such railroad, or of the maintenance or construction of its equipment: *Provided, further,* That nothing in this section shall be construed as relieving an independent contractor engaged through or by his employes in performing extra hazardous work for a common carrier by railroad, from the duty of complying with the terms of this act, nor as depriving any employe of such independent contractor of the benefits of this act.

State Industries of interstate carriers.

Independent contractor included.

Passed the House December 8, 1925.

Passed the Senate December 17, 1925.

Vetoed December 24, 1925.

Passed over Governor's veto January 2, 1926.