

of as may be necessary for carrying out the provisions of this act.

Passed the Senate February 27, 1917.

Passed the House March 6, 1917.

Approved by the Governor March 14, 1917.

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## CHAPTER 120.

[S. B. 317.]

### AMENDING WORKMEN'S COMPENSATION ACT.

AN ACT relating to the compensation of injured workmen in our industries and the compensation of their dependents where such injuries result in death, providing for the collection and disbursement of funds for such purpose, providing penalties and amending section 6604-4 of Remington & Ballinger's Annotated Codes and Statutes of Washington, as amended by section 1 of chapter 188, Session Laws of 1915 of the State of Washington, and amending sections 6604-3, 6604-8, 6604-22 and 6604-23 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 6604-3 of Rem. & Bal. Code  
Definitions. be amended to read as follows:

Section 6604-3. In the sense of this act words employed mean as here stated, to-wit:

Factories. Factories mean undertakings in which the business of working at commodities is carried on with power-driven machinery, either in manufacture, repair or change, and shall include the premises, yard and plant of the concern.

Workshop. Workshop means any plant, yard, premises, room or place wherein power-driven machinery is employed and manual labor is exercised by way of trade for gain or otherwise in or incidental to the process of making, altering, repairing, printing or ornamenting, finishing or adapting for sale or otherwise any article or part of article, machine or thing, over which premises, room or place the employer of the person working therein has the right of access or control.

Mill means any plant, premises, room or place where machinery is used, any process of machinery, changing, altering or repairing any article or commodity for sale or otherwise, together with the yards and premises which are a part of the plant, including elevators, warehouses and bunkers. Mill.

Mine means any mine where coal, clay, ore, mineral, gypsum or rock is dug or mined underground. Mine.

Quarry means an open cut from which coal is mined, or clay, ore, mineral, gypsum, sand, gravel or rock is cut or taken for manufacturing, building or construction purposes. Quarry.

Engineering work means any work of construction, improvement or alteration or repair of buildings, structures, streets, highways, sewers, street railways, railroads, logging roads, interurban railroads, harbors, docks, canals; electric, steam or water power plants, telegraph and telephone plants and lines, electric light or power lines, and includes any other works for the construction, alteration or repair of which machinery driven by mechanical power is used. Engineering work.

Except when otherwise expressly stated, employer means any person, body of persons, corporate or otherwise, and the legal personal representatives of a deceased employer, all while engaged in this state in any extra hazardous work. Employer.

Workman means every person in this state, who, after September 30, 1911, is engaged in the employment of an employer carrying on or conducting any of the industries scheduled or classified in section 6604-4, whether by way of manual labor or otherwise, and whether upon the premises or at the plant or, he being in the course of his employment, away from the plant of his employer: *Provided, however,* That if the injury to a workman occurring away from the plant of his employer is due to the negligence or wrong of another not in the same employ, the injured workman, or if death result from the injury, his widow, children or dependents, as the case may be, shall elect Workman.  
Injuries away from plant.

Election of remedies.

whether to take under this act or seek a remedy against such other, such election to be in advance of any suit under this section; and if he take under this act, the cause of action against such other shall be assigned to the state for the benefit of the accident fund; if the other choice is made, the accident fund shall contribute only the deficiency, if any, between the amount of recovery against such third person actually collected, and the compensation provided or estimated by this act for such case. Any such cause of action assigned to the state may be prosecuted, or compromised by the department, in its discretion. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund, may be made only with the written approval of the department.

Injuries to employer carried on payroll.

Any individual employer or any member or officer of any corporate employer who shall be carried upon the payroll at a salary or wage not less than the average salary or wage named in such payroll and who shall be injured, shall be entitled to the benefit of this act as and under the same circumstances as and subject to the same obligations as a workman: *Provided*, That no such employer or the beneficiaries or dependents of such employer shall be entitled to benefits under this act unless the commission prior to the date of the injury has received notice in writing of the fact that such employer is being carried upon the payroll prior to the date of the injury as the result of which claims for compensation are made.

Dependent.

Dependent means any of the following named relatives of a workman whose death results from any injury and who leaves surviving no widow, widower, or child under the age of sixteen years, viz.: Invalid child over the age of sixteen years, daughter, between sixteen and eighteen years of age, father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-sister, half-brother, niece, nephew, who, at the time of the accident are dependent in whole or in part, for their support upon the earn-

ings of the workman. Except where otherwise provided by treaty, aliens other than father or mother, not residing within the United States at the time of the accident, are not included. Aliens.

Beneficiary means a husband, wife, child or dependent of a workman, in whom shall vest a right to receive payment under this act. Beneficiary.

Invalid means one who is physically or mentally incapacitated from earning. Invalid.

The word "child" as used in this act, includes a posthumous child, a child legally adopted prior to the injury and an illegitimate child legitimated prior to the injury. Child.

The words "injury" or "injured" as used in this act, refer only to an injury resulting from some fortuitous event as distinguished from the contraction of disease. Injury.

SEC. 2. That section 6604-4 of Rem. & Bal. Code be amended to read as follows:

Section 6604-4. Inasmuch as industry should bear the greater portion of the burden of the cost of its accidents, each employer shall, prior to January 15th of each year, pay into the state treasury, in accordance with the following schedule, a sum equal to a percentage of his total payroll for that year, to-wit: (the same being deemed the most accurate method of equitable distribution of burden in proportion to relative hazard): Schedule of premiums.

CONSTRUCTION WORK.

Tunnels; bridges; trestles; sub-aqueous works; ditches and canals (other than irrigation without blasting); dock excavation; fire escapes; sewers; house moving; house wrecking .....	.065
Iron, or steel frame structures or parts of structures.....	.080
Electric light or power plants or systems; telegraph or telephone systems; pile driving; steam railroads.....	.050
Steeple, towers or grain elevators, not metal frames; dry-docks without excavation; jetties; breakwaters; chimneys; marine railways; water works or systems; electric railways with rock work or blasting; erecting fireproof doors or shutters.....	.050

Steam heating plants; tanks, water towers or windmills, not metal frames..... .040  
 Shaft sinking ..... .060  
 Concrete buildings; freight or passenger elevators; fire-proofing of buildings; galvanized iron or tin works; gas works, or systems; marble, stone or brick work; road making with blasting; roof work; safe moving; slate work; outside plumbing work; metal smokestacks or chimneys ..... .050  
 Excavations not otherwise specified; blast furnaces..... .040  
 Street or other grading; cable or electric street railways without blasting; advertising signs; ornamental metal work in buildings..... .035  
 Ship or boat building or wrecking with scaffolds; floating docks ..... .045  
 Carpenter work not otherwise specified..... .035  
 Installation of steam boilers or engines; placing wire in conduits; installing dynamos; putting up belts for machinery; marble, stone or tile setting, inside work; mantel setting; metal ceiling work; mill or ship wrighting; painting of buildings or structures; installation of automatic sprinklers; ship or boat rigging; concrete laying in floors, foundations or street paving; asphalt laying; covering steam pipes or boilers, installation of machinery not otherwise specified..... .030  
 Drilling wells; installing electrical apparatus or fire alarm systems in buildings; house heating or ventilating systems; glass setting; building hot houses; lathing; paper hanging; plastering; inside plumbing; wooden stair building; road making..... .020

OPERATION (INCLUDING REPAIR WORK) OF

(All combinations of material take the higher rate when not otherwise provided.)

Logging railroads; railroads; dredges; interurban electric railroads using third rail system; dry or floating docks .050  
 Electric light or power plants; interurban electric railroads not using third rail system; quarries..... .040  
 Street railways, all employes; telegraph or telephone systems; stone crushing; blasting furnaces; smelters; coal mines; gas works; steamboats; tugs; ferries.... .030  
 Mines, other than coal; steam heating or power plants.... .025  
 Grain elevators; laundries; water works; paper or pulp mills; garbage works..... .020

FACTORIES USING POWER DRIVEN MACHINERY.

Stamping tin or metal..... .045  
 Bridge work; railroad car or locomotive making or repairing; cooperage; logging with or without machinery; saw mills; shingle mills; staves; veneer; box; lath; packing cases; sash, door or blinds; barrel, keg,

pail; basket; tub; wooden ware or wooden fibre ware; rolling mills; making steam shovels or dredges; tanks; water towers; asphalt; building material not otherwise specified; fertilizer; cement; stone with or without machinery; kindling wood; masts and spars with or without machinery; canneries, metal stamping extra; creosoting works; pile treating works..... .025

Excelsior, iron, steel, copper, zinc, brass or lead articles or wares not otherwise specified; working in wood not otherwise specified; hardware; tile; brick; terra cotta; fire clay; pottery; earthen ware; porcelain ware; peat fuel; brickettes ..... .020

Breweries; bottling works; boiler works; foundries; machine shops not otherwise specified..... .020

Cordage; working in foodstuffs, including oils, fruits and vegetables; working in wool; cloth, leather, paper, broom, brush, rubber or textiles not otherwise specified .015

Making jewelry, soap, tallow, lard, grease, condensed milk. .015

Creameries; printing; electrotyping, photo-engraving; engraving; lithographing ..... .015

MISCELLANEOUS WORK.

Stevedoring; longshoring ..... .030

Operating stock yards, with or without railroad entry; packing houses ..... .025

Wharf operation; artificial ice, refrigerating or cold storage plants; tanneries; electric systems not otherwise specified ..... .020

Theatre stage employees..... .015

Fire works manufacturing..... .050

Powder works ..... .100

The application of this act as between employers and workmen shall date from and include the first day of October, 1911. The payment for 1911 shall be made prior to the day last named, and shall be preliminarily collected upon the payroll of the last preceding three months of operation. At the end of each year an adjustment of accounts shall be made upon the basis of the actual payroll. Any shortage shall be made good on or before February 1st, following. Every employer who shall enter into business at any intermediate day, or who shall resume operations in any work or plant after the final adjustment of his payroll in connection therewith, shall, before so commencing or resuming operations, as the case may be, notify the commission of such fact, accompanying

Annual  
adjustment  
of accounts.

Estimated  
payrolls.

such notification with an estimate of his payroll for the initial year or portion thereof, and shall make payment of the premium on such estimated payroll for the first three months of operations. An adjustment upon such payroll shall be made as in other cases.

Monthly  
report of  
payrolls.

Every employer within the provisions of this act shall on or before the fifteenth day of each month furnish the department with a true and accurate payroll showing the aggregate number of work days, that is men-days, during which workmen were employed by him during preceding month, the total amount paid to such workmen during said month, and a segregation of employment in the different classes provided in this act. The sufficiency of such statement shall be subject to the approval of the industrial insurance commission.

Records of  
employment.

Every employer shall keep at his place of business a record of his employment from which the above information may be obtained and such record shall at all times be open to the inspection of the commissioners or the traveling auditors, agents or assistants of the department, as provided in section 6604-15 of Rem. & Bal. Code.

Exclusions  
from  
payroll.

In all cases where partners or other persons are excluded on the payroll such statement shall state both the names and occupations of the parties excluded and no such person shall be entitled to compensation unless notice in writing that such excluded person has been included is received by the department prior to the date of injury to such person. Such employer shall at the time of reporting his payroll also state the names and addresses of any contractor or sub-contractor operating for or under him.

Penalty for  
failure to  
record and  
report.

Every person, firm or corporation who shall fail to keep such record or fail to make such report in the manner and at the time herein provided shall be subject to a penalty of one hundred dollars (\$100.00) for each such offense, to be collected by civil action in the name of the state and paid into the accident fund.

Every employer who shall fail to furnish an estimated payroll and make payment as above provided, shall be liable to a penalty in three times the amount of the premium on such payroll, to be collected in a civil action in the name of the state, and paid into the accident fund. The commission may waive the whole or any part of such penalty.

Penalty for failure to furnish estimated payroll.

For the purpose of such payments accounts shall be kept with each industry in accordance with the classification herein provided and no class shall be liable for the depletion of the accident fund from accidents happening in any other class. Each class shall meet and be liable for the accidents occurring in such class. There shall be collected from each class as an initial payment into the accident fund as above specified on or before the 1st day of October, 1911, one-fourth of the premium of the next succeeding year, and one-twelfth thereof at the close of each month after December, 1911: *Provided*, Any class having sufficient funds credited to its account at the end of the first three months or any month thereafter, to meet the requirements of the accident fund, that class shall not be called upon for such month. In case of accidents occurring in such class after lapsed payment or payments said class shall pay the said lapsed or deferred payments commencing at the first lapsed payment, as may be necessary to meet such requirements of the accident fund. The fund thereby created shall be termed the "accident fund" which shall be devoted exclusively to the purpose specified for it in this act.

One class not liable for accidents of another.

Monthly payments to accident fund.

In that the intent is that the fund created under this section shall ultimately become neither more nor less than self-supporting, exclusive of the expense of administration, the rates named in this section are subject to future adjustment by the industrial insurance department, in accordance with any relative increase or decrease in hazard shown by experience, and if in the judgment of the industrial insurance department the moneys paid into the fund

Readjustment of rates.



of any class or classes shall be insufficient to properly and safely distribute the burden of accidents occurring therein, the department may divide, rearrange or consolidate such class or classes, making such adjustment or transfer of funds as it may deem proper.

It shall be unlawful for the employer to deduct or obtain any part of the premium required by this section to be by him paid from the wages or earnings of his workmen or any of them, and the making or attempting to make any such deduction shall be a gross misdemeanor. The industrial insurance commission shall on or before the 30th day of September, 1917, and semi-annually thereafter make corrections of classifications as between classes of industries if and as experience shall show error or inaccuracy therein, and, under and conformably to the foregoing rule of classification and premium rating, shall at the same time lower the premium rate of any establishment or plant if and as experience shall show it to maintain such a high standard of safety or accident prevention as to differentiate it to that extent from other like establishments or plants, or shall raise the premium rate of any establishment or plant if and as experience shall show it to maintain so low a standard of safety or accident prevention as to justify warrant its being subjected to that extent to a greater contribution to the accident fund. From the original classification or premium rating or any change made therein any employer claiming to be aggrieved may upon application, have a hearing before the industrial insurance commission upon notice to the interested parties and in the manner provided in section 6604-20 a review by the courts. If, at the end of any year, it shall be seen that the contribution to the accident fund by any class of industry shall be less than the drain upon the fund on account of that class, the deficiency shall be made good to the fund on the 1st day of February of the following year by the employers of that class in proportion to their respective payments for the past year.

Employer  
not to deduct  
from wages  
to pay  
premiums.

Corrections  
in classifica-  
tions.

Review by  
courts of  
classifica-  
tions and  
ratings.

Deficiencies  
in accident  
fund.

For the purpose of such payment and making good of deficit the particular classes of industry shall be as follows:

Classifica-  
tion of  
industries.

#### CONSTRUCTION WORK.

Class 1. Tunnels; sewer; shaft sinking; drilling wells.

Class 2. Bridges; mill wrighting; trestles; steeples, towers or grain elevators not metal framed; tanks; water towers, windmills not metal framed.

Class 3. Sub-aqueous works; canal other than irrigation or docks with or without blasting; pile driving; jetties; break-waters; marine railways.

Class 4. House moving; house wrecking; safe moving.

Class 5. Iron or steel frame structures or parts of structures; fire escapes; erecting fireproof doors or shutters; blast furnaces; concrete chimneys; freight or passenger elevators; fireproofing of buildings; galvanized iron or tin work; marble, stone or brick work; roof work; slate work; plumbing work; metal smokestacks or chimneys; advertising signs; ornamental metal work in buildings; carpenter work not otherwise specified; marble, stone or tile setting; mantel setting; metal ceiling work; painting of buildings or structures; concrete laying in floors or foundations; glass setting; building hot houses; lathing; paper hanging; plastering; wooden stair building.

Class 6. Electric light and power plants or systems, telegraph or telephone systems; cable or electric railways with or without rock work or blasting; water works or systems; steam heating plants; gas works or systems; installation of steam boilers or engines; placing wires in conduits; installing dynamos; putting up belts for machinery; installation of automatic sprinklers; covering steam pipes or boilers; installation of machinery not otherwise specified; installing electrical apparatus or fire alarm systems in buildings; house heating or ventilating systems.

Class 7. Steam railroads; logging railroads.

Class 8. Road making; street or other grading; concrete laying in street paving; asphalt laying.

Class 9. Ship or boat building with scaffolds; shipwrighting; ship or boat rigging; floating docks.

OPERATION (INCLUDING REPAIR WORK) OF

Class 10. Logging; saw mills; shingle mills; lath mills; masts and spars with or without machinery.

Class 11. Omitted by the legislature.

Class 12. Dredges, dry or floating docks.

Class 13. Electric light or power plant or systems; steam heat or power plants or systems; electric systems not otherwise specified.

Class 14. Street railways.

Class 15. Telegraph systems; telephone systems.

Class 16. Coal mines.

Class 17. Quarries; stone crushing; mines other than coal.

Class 18. Blast furnaces; smelters; rolling mills.

Class 19. Gas works.

Class 20. Steamboats; tugs; ferries.

Class 21. Grain elevators.

Class 22. Laundries.

Class 23. Water works.

Class 24. Paper or pulp mills.

Class 25. Garbage works; fertilizer.

FACTORIES (USING POWER-DRIVEN MACHINERY).

Class 26. Stamping tin or metal.

Class 27. Bridge work, making steam shovels or dredges; tanks; water towers.

Class 28. Railroad car or locomotive making or repairing.

Class 29. Cooperage; staves; veneer; box; packing cases; sash, door or blinds; barrel; keg; pail; basket; tub; wood ware or wood fibre ware; kindling wood; excelsior; working in wood not otherwise specified.

Class 30. Asphalt.

Class 31. Cement; stone with or without machinery; building material not otherwise specified.

Class 32. Canneries of fruits or vegetables.

Class 33. Canneries of fish or meat products.

Class 34. Iron, steel, copper, zinc, brass or lead articles or wares; hardware; boiler works; foundries; machine shops not otherwise specified.

Class 35. Tile; brick; terra cotta; fire clay; pottery; earthen ware; porcelain ware.

Class 36. Peat fuel; brickettes.

Class 37. Breweries; bottling works.

Class 38. Cordage; working in wool, cloth, leather, paper, brush, rubber or textile not otherwise specified.

Class 39. Working in foodstuffs, including oils, fruits, vegetables.

Class 40. Condensed milk; creameries.

Class 41. Printing; electrotyping; photo-engraving; engraving; lithographing; making jewelry.

Class 42. Stevedoring; longshoring; wharf operation.

Class 43. Stock yards; packing houses; making soap, tallow, lard, grease; tanneries.

Class 44. Artificial ice, refrigerating or cold storage plants.

Class 45. Theatre stage employees.

Class 46. Fire works manufacturing; powder works.

Class 47. Creosoting works; pile treating works.

If a single establishment or work comprises several occupations listed in this section in different risk classes, the premium shall be computed according to the payroll of each occupation if clearly separable; otherwise an average rate of premium shall be charged for the entire establishment taking into consideration the number of employees and the relative hazards. In computing the payroll the entire compensation received by every workman employed in extra hazardous employment shall be included whether it be in the form of salary, wage, piece work, overtime or any allowance in the way of profit shar-

Single establishments in different risk classes.

Method of computing payroll.

ing, premium or otherwise, and whether payable in money, board or otherwise.

SEC. 3. That section 6604-22 of Rem. & Bal. Code be amended to read as follows:

Compensation of commissioners and assistants.

Section 6604-22. The salary of each of the commissioners shall be thirty-six hundred dollars (\$3,600.00) per annum, and he shall be allowed his actual and necessary traveling and incidental expenses; and any assistant to the commissioner shall be paid for each full day's service rendered by him, his actual and necessary traveling expenses and such compensation as the commission may deem proper not to exceed six dollars (\$6.00) per day to an auditor, or five dollars (\$5.00) per day to any other assistant. Each commissioner shall give a surety company bond in the sum of twenty-five thousand dollars (\$25,000.00) payable to the State of Washington, conditioned upon the faithful performance of his duties, and the person designated by the said commission as claim agent shall give a surety company bond in the sum of twenty thousand dollars (\$20,000.00) payable to the State of Washington, conditioned upon the faithful performance of his duties.

Bonds of commissioners and claim agent.

SEC. 4. That section 6604-23 of Rem. & Bal. Code be amended to read as follows:

Auditors and assistants.

Section 6604-23. The commissioners may appoint a sufficient number of auditors and assistants to aid them in the administration of this act at an expense not to exceed five thousand dollars (\$5,000) per month. They may employ one or more physicians in each county for the purpose of official medical examinations, whose compensation shall be limited to five dollars (\$5.00) for each examination and report therein. They may procure such record books as they may deem necessary for the record of the financial transactions and statistical data of the department, and the necessary documents, forms and blanks. They may establish and require all employers to install and maintain a uniform form of payroll.

Medical examinations.

Uniform payrolls.

SEC. 5. That section 6604-8 of Rem. & Bal. Code be amended to read as follows:

Section 6604-8. If any employer shall default in any payment to the accident fund or the medical aid fund, the sum due shall be collected by action at law in the name of the state as plaintiff, and such right of action shall be in addition to any other right of action or remedy. If such default be after demand, there shall also be collected a penalty equal to twenty-five per centum of the amount of the defaulted payment or payments, and the commission may require from the defaulting employer a bond to the state for the benefit of the accident and medical aid funds, with surety to their satisfaction, in the penalty of double the amount of the estimated payments which will be required from such employer into the said funds for and during the ensuing one year, conditioned for the prompt and punctual making of all payments into said funds required during said year period, together with any penalty or penalties incurred. In case of refusal or failure after written demand personally served to furnish such bond, the state in an action brought by the attorney general in its name shall be entitled to an injunction restraining such delinquent from prosecuting an extra hazardous occupation or work until such bond shall be furnished, and any sale, transfer or lease attempted to be made by such delinquent during the period of such default, of his works, plant or lease thereto shall be invalid until all past delinquencies are made good and such bond furnished. All actions for the recovery of such payments shall be brought in the superior court and in all cases of insolvency, assignment for the benefit of creditors, or bankruptcy, the claim of the state for payments due herein shall be a claim prior to all other claims, except taxes, and it shall be the duty of all receivers or assignees for the benefit of creditors to notify the industrial insurance department of such receivership or assignment within thirty (30) days from the date of their appointment and qualification. In any action or proceeding brought for the recovery of

Delinquent  
employers.

Priority of  
accident  
fund claims.

payments due upon the payroll of an employer, the certificate of the industrial insurance department that an audit has been made of the payroll of such employer pursuant to the direction of the department and of the amount of such payroll for the period stated in the certificate shall be *prima facie* evidence of such fact.

Passed the Senate March 3, 1917.

Passed the House March 7, 1917.

Approved by the Governor March 14, 1917.

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## CHAPTER 121.

[H. B. 162.]

### EMPLOYMENT OF FREE OR CONVICT LABOR IN STATE ROAD CONSTRUCTION.

AN ACT relating to public highways and providing for the employment of free or day labor and convict labor, and amending section 5869-1 of Remington & Ballinger's Annotated Codes and Statutes of Washington.

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

SECTION 1. That section 5869-1 of Rem. & Bal. Code be, and the same is, hereby amended to read as follows:

Section 5869-1. The state highway board may in its discretion cause any state road to be constructed, either under contract as now provided by law or by force account. Construction may be done by force account in all cases where the estimated amount of said work is less than the sum of five thousand dollars (\$5,000.00): *Provided*, This limitation of five thousand dollars (\$5,000.00) shall not apply to work done by convict labor. The work may be done either by free or day labor or by the use of convict labor when available and capable of advantageous use. The state highway board shall by resolution entered upon its record determine when construction in any case shall be by force account, and whether by free or day labor or by convict labor, which resolution shall state the reasons for such determination. In all other cases con-

Construction  
of state  
roads.

Force ac-  
count, day  
labor and  
convict labor.