

No. 552

A SUPPLEMENT

To the act, approved the second day of June, one thousand nine hundred fifteen (Pamphlet Laws, seven hundred thirty-six), entitled, as amended "An act defining the liability of an employer to pay damages for injuries received by an employe in the course of employment; establishing a system and schedule of compensation; providing procedure for the determination of liability and compensation thereunder; and prescribing penalties," as amended and re-enacted, providing for the inclusion of occupational diseases within the scope thereof, and providing definitions, provisions, and procedure related to such diseases; and making an appropriation.

Be it enacted, &c., That,

Title.

Section 1. This act shall be known, and be cited, as the "Occupational Disease Compensation Act."

Occupational diseases.

Section 2. The term "occupational disease" as used in this act shall mean and include the following diseases:

(a) Poisoning by lead, mercury, arsenic, or manganese, their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(b) Poisoning by phosphorus, its preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(c) Poisoning by methanol, carbon bisulphide, hydro carbon distillates (naphthas and others), or halogenated hydro carbons, or any preparations containing these chemicals or any of them, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(d) Poisoning by benzol, or by nitro, amido, or amino derivatives of benzol (dinitro-benzol, anilin, and others), or their preparations or compounds, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(e) Caisson disease (compressed air illness) resulting from engaging in any occupation carried on in compressed air.

(f) Radium poisoning or disability, due to radioactive properties of substances or to Roentgen-ray (X-rays) in any occupation involving direct contact with, handling thereof, or exposure thereto.

(g) Poisoning by, or ulceration from, chromic acid, or bichromate of ammonium, potassium, or sodium or their preparations, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(h) Epitheliomatous cancer or ulceration due to tar, pitch, bitumen, mineral oil, or paraffin, or any compound, product or residue of any of those substances, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(i) Infection or inflammation of the skin or other contact surfaces, due to oils, cutting compounds, lubricants, dust, liquids, fumes, gases, or vapor, in any occupation involving direct contact with, handling thereof, or exposure thereto.

(j) Anthrax occurring in any occupation involving the handling of or exposure to wool, hair, bristles, hides, or skins, or bodies of animals either alive or dead.

(k) Silicosis or anthraco-silicosis in any occupation involving direct contact with, handling of, or exposure to dust of silicon dioxide (SiO₂).

(l) Asbestosis in any occupation involving direct contact with, handling of, or exposure to the dust of asbestos.

Section 3. The several provisions of the Workmen's Compensation Act, to which this act is a supplement, shall be applicable to this act insofar as they are consistent with terms hereof. In applying the Workmen's Compensation Act to this act, the Workmen's Compensation Act shall be construed as including, in addition to "injury" and "personal injury" by accident, "occupational disease" and the resultant effects thereof, including death. The word "disabled," as herein used, means disabled from earning full wages in the employment in which the employe was employed.

"Disability" as used herein means the state of being so disabled. The date when the disability occurs from occupational disease shall be deemed to be the date of injury or accident.

Section 4. When an employer and employe shall be subject to the provisions of article three of the Workmen's Compensation Act as therein provided, compensation for occupational disease shall be paid in all cases by the employer according to the schedule provided in such act, subject, however, to the special terms and conditions relative thereto as set forth in this act.

Section 5. (a) Compensation for silicosis or anthraco-silicosis, or silicosis, anthraco-silicosis complicated by infection, and asbestosis, shall be paid only when it is shown that the employe has had an aggregate employment of at least two years in the Commonwealth of Pennsylvania, during a period of eight years next preceding the date of disability, in an occupation having a silica or asbestos hazard.

(b) Compensation shall not be payable for partial disability due to silicosis, anthraco-silicosis, or asbestosis. Compensation shall be payable, as otherwise provided in this act, for total disability or death caused primarily (as definitely distinguished from a contributory or accelerating cause) by silicosis, anthraco-silicosis, or asbestosis, or by silicosis, anthraco-silicosis, or asbestosis, when accompanied by active pulmonary tuberculosis or

The Workmen's Compensation Act applies as far as consistent with this act. In applying the Workmen's Compensation Act, the same shall include occupational disease and the resultant effects thereof, including death.
Definitions.

Compensation for occupational disease paid in accordance with Workmen's Compensation Act, subject to special terms and conditions in this act.

Paid only where employed in Pennsylvania an aggregate of two years during the eight years next preceding disability.

Partial disability.
Total disability.
Death.

streptococic infection of the lung. The total liability of the employer unto the employe or his dependents under this section shall not exceed the sum of thirty-six hundred dollars (\$3600).

Presumption as to origin of occupational disease.

Section 6. (a) If it shall be shown that the employe, at or immediately before the date of disability, was employed in any process or employment set forth in section two, it shall be presumed that the occupational disease is due to the nature of that employment. This presumption, however, shall not be conclusive.

Rebuttable.

(b) An employer shall be liable for the payments prescribed by this act for the occupational diseases described in section 2 hereof when disability of an employe, resulting in loss of earnings, shall be due to an employment in a hazardous occupation in which he was employed and such disability results within two years after the last exposure in such employment, or in case of death resulting from such exposure, if such death occurs within five years following disability from such disease.

Disability resulting within two years after last exposure, or in case of death within five years of last exposure.

Section 7. (a) In the case of such occupational diseases as the Workmen's Compensation Board shall determine develops to the point of disablement only after an exposure of five or more years, the compensation for disability or death due to such diseases shall, for a period of ten years immediately succeeding the effective date of this act, be payable jointly by the Commonwealth and the employer, as follows: If disability occurs, or if no compensable period of disability occurs if death occurs, during the first year in which this act becomes effective, the employer shall be liable for and pay one-tenth of the compensation for such disability or death, and the remainder of such compensation shall be paid by the Commonwealth out of moneys to the credit of the Second Injury Reserve Account in the State Workmen's Insurance Fund. Thereafter for each successive year of such ten-year period in which disability occurs, or if no compensable period of disability occurs if death occurs, the employer shall be liable for and shall pay one-tenth more of such compensation, and the remainder of such compensation shall be paid by the Commonwealth out of moneys to the credit of the Second Injury Reserve Account in the State Workmen's Insurance Fund. After the expiration of such ten-year period, the employer shall pay the compensation for disability or death occurring thereafter in full.

Workmen's Compensation Board.

Part payment by the Commonwealth in certain cases.

(b) The sum of one hundred thousand dollars (\$100,000.00) is hereby appropriated out of the General Fund to the State Workmen's Insurance Board, for payment into the State Workmen's Insurance Fund to the credit of the Second Injury Reserve Account, and is hereby appropriated for the carrying out of the purposes of paragraph (a) of this section. The aforesaid sum of

\$100,000 appropriated to carry out purposes of paragraph (a) of this section

one hundred thousand dollars (\$100,000.00) shall as soon as practical be repaid into the General Fund of the State Treasury out of moneys to the credit of the Second Injury Reserve Account in the State Workmen's Insurance Fund, and such moneys are hereby appropriated to the State Workmen's Insurance Board for this purpose.

Section 8. In any action brought after the effective date of this act in any court by an employe against his employer who has elected not to be bound by the provisions of Article III of the Workmen's Compensation Act, and such action is based upon a claim by the employe for damages for personal injury resulting from an occupational disease, proof on the part of the employe that he had been subjected to a physical examination by such employer and that he had been discharged by such employer within one year after such examination, or proof of discharge by such employer and the further fact that the employe was unable to secure other employment within six months of the date of such discharge by reason of the presence of an occupational disease in any stage, shall be prima facie evidence of negligence on the part of such employer. In any such action it shall not be a defense on the part of any employer—

Proof.

Prima facie evidence of negligence.

(a) That the injury was caused in whole or in part by the negligence of a fellow employe; or

Defenses not permissible.

(b) That the employe had assumed the risk of the employment; or

(c) That the injury was caused in any degree by the negligence of such employe; or

(d) That the employe was exposed to the hazard of such disease in any other employment more than two years prior to the date of such action.

The Statute of Limitations in any such action for personal injury resulting from an occupational disease shall commence to run from the date of the last exposure to the hazards of such disease in the employment of the defendant.

Statute of Limitations.

Section 9. The employer in whose employment the employe was last exposed in a hazardous occupation and the insurance carrier, if any, who was on the risk at the time of the last exposure in such employment, shall be liable for any payments required by this act. The notice of injury and claim shall be made to such employer.

Employer and the insurance carrier liable.

Notice of injury and claim.

Section 10. In all cases involving claims for silicosis, anthraco-silicosis, except in those cases wherein there are no controverted medical issues, between the parties, the Workmen's Compensation Board or Referee shall appoint a Medical Advisory Board composed of one or more duly qualified, impartial physicians or surgeons or experts in accordance with section 420 of the Work-

men's Compensation Act, to be selected from a panel to be submitted by the Secretary of the Department of Labor and Industry, which panel shall be made up of names selected from lists submitted by the deans of all legally recognized medical schools in the Commonwealth of Pennsylvania. The Workmen's Compensation Board or Referee shall order the claimant to subject himself to such clinical, pathological, and Roentgen examinations as in the opinion of the Medical Advisory Board may be necessary to determine whether or not the claimant has contracted or is suffering from the disease for which claim has been filed. After examination, the Medical Advisory Board shall file with the Workmen's Compensation Board or Referee its written report setting forth its opinion with respect to the following medical questions:

(a) Whether or not the claimant has contracted or is suffering from silicosis or anthraco-silicosis, and in death cases, whether or not death was caused by either of them.

(b) If the claimant has contracted or is suffering from silicosis or anthraco-silicosis, its opinion as to the extent of injury suffered by the claimant.

The Workmen's Compensation Board or Referee shall mail a copy of such report and findings to the claimant and to the employer or his, their, or its insurers, within twenty (20) days from the date of the filing thereof.

The Workmen's Compensation Board or Referee shall order an autopsy to be made upon the decedent for the purpose of examination and tests to determine the cause of death in the following cases:

(1) When the Workmen's Compensation Board or Referee, upon the advice of the Medical Advisory Board, deems such an autopsy to be necessary to determine the cause of death.

(2) Upon application of the employer, when the Medical Advisory Board recommends an autopsy to determine the cause of death.

The findings resulting from such examinations and tests shall be filed with the State Department of Health, and certified copies thereof shall be filed with the Workmen's Compensation Board or Referee, and shall become public records in the case.

The reports and findings of the physicians, surgeons, or experts so appointed by the Workmen's Compensation Board or Referee, shall be considered by the Workmen's Compensation Board or Referee as evidence of findings therein contained, and shall be considered together with any other medical evidence offered on behalf of the claimant or employer. At the time of any hearing of said cause, the physicians, surgeons or experts so appointed by the Workmen's Compensation Board or

Referee shall appear and be subject to examination and cross-examination by the parties to said cause if written request therefor shall be filed by either of said parties with the referee or board within ten (10) days after written notice of the filing of said report and findings shall be mailed to the respective parties in interest.

All the proceedings for compensation shall be suspended upon the refusal of a claimant or claimants to submit to such clinical, pathological and Roentgen examinations as may be ordered by the Workmen's Compensation Board or Referee. In death cases, in the event that a claimant or claimants shall refuse to permit an autopsy to be made upon the body of the decedent for a period of six months after death, when ordered by the Workmen's Compensation Board or Referee, then and in that event no compensation shall be payable, and claim therefor shall be disallowed by the Workmen's Compensation Board or Referee.

Section 11. The Workmen's Compensation Board or any Workmen's Compensation Referee shall have power to issue an order authorizing the entry of any physician, surgeon, or expert upon the premises of the defendant employer in order to ascertain the facts in any case arising under this act.

Section 12. It is hereby determined to be the legislative intent that if this act cannot take effect in its entirety because of the decision of any court holding unconstitutional any part hereof, the remaining provisions shall be given full force and effect as if the part held unconstitutional had not been included herein.

Section 13. This act shall become effective on the first day of January, one thousand nine hundred thirty-eight.

APPROVED—The 2d day of July, A. D. 1937.

GEORGE H. EARLE

No. 553

AN ACT

To amend the act, approved the seventh day of June, one thousand nine hundred and fifteen (Pamphlet Laws, nine hundred), entitled "An act to provide for the immediate registration of all births and deaths throughout the Commonwealth of Pennsylvania, by means of certificates of births and deaths, and burial or removal permits; requiring prompt returns to the Central Bureau of Vital Statistics, as required to be established by the State Department of Health; and, in order to secure prompt and faithful registration of births, marriages, deaths, and diseases, of practitioners of medicine and surgery, of midwives, nurses, and undertakers, and of all persons whose occupation is deemed to be of importance in obtaining complete registration of births, deaths, marriages, and diseases throughout the