

WORKMEN'S COMPENSATION

CHAPTER 417

S. B. No. 82
(Gefreh and Trenbeath)

REIMBURSEMENT TO EMPLOYERS FOR CERTAIN JUDGMENTS

AN ACT

To provide for reimbursement to certain employers from the workmen's compensation fund for judgments rendered against them involving employee's injuries.

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

§ 1.) Any employer in the state of North Dakota who had paid the premiums for workmen's compensation insurance for the period during which an employee was injured and who has had to pay common law damages resulting from a judgment rendered against him by a court of competent jurisdiction, which judgment was rendered between July 1, 1956 and July 1, 1959, because the employer failed to conspicuously post notice that he had paid workmen's compensation insurance premiums as provided for in section 65-0429 of the North Dakota Revised Code of 1943, shall be reimbursed, upon application, for the full amount of such judgment from the workmen's compensation fund.

Approved March 10, 1959.

CHAPTER 418

H. B. No. 779
(Muggli)

UNLAWFUL EMPLOYMENT OF UNINSURED WORKERS

AN ACT

To amend and reenact section 65-0105 of the North Dakota Revised Code of 1943 and to create and enact section 65-04271 of the North Dakota Revised Code of 1943, relating to workmen's compensation insurance; unlawfully employing uninsured workers; penalty therefor; injunction to restrain unlawful employment of uninsured workers; injunction to restrain employment when premiums are delinquent; injunction to restrain employment for failure to comply with safety rules and regulations; application for injunction; procedure.

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

§ 1. **Amendment.**) Section 65-0105 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0105. Employment of Those Unprotected by Insurance Unlawful; Effect of Failure to Secure Compensation; Penalty; Injunction.) It shall be unlawful for any person, firm, or corporation to employ anyone, or to receive the fruits of the labor of any person, in a hazardous employment as defined in this title, without first making application for workmen's compensation insurance coverage for the protection of such employees by notice to the bureau of the intended employment, the nature thereof and the estimated pay roll expenditure for the coming twelve month period. Failure to secure workmen's compensation coverage for employees by application for workmen's compensation insurance shall constitute a misdemeanor, punishable by a fine of not more than five hundred dollars or imprisonment for not more than one year, or both. Where the employer is a corporation, the president, secretary and treasurer thereof shall be liable for the failure to secure workmen's compensation coverage under this section. In addition to the penalties prescribed above the bureau may, by injunction proceedings as provided for in this title, enjoin any employer from unlawfully employing uninsured workers.

§ 2.) Section 65-04271 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

65-04271. Injunction to Restrain Unlawful Employment of Uninsured Workers; to Enjoin Employment When Workmen's

Compensation Insurance Premium is Delinquent; to Enjoin Employment When There is Failure to Comply With Safety Rules and Regulations; Application; Procedure.)

1. To protect the lives, safety and well-being of wage workers, to insure fair and equitable contributions to the state workmen's compensation insurance fund between all employers, and to protect the workmen's compensation fund, the workmen's compensation bureau may institute injunction proceedings in the name of the state of North Dakota against certain employers to prohibit them from employing others in those employments defined as hazardous by this title in any of the following instances:
 - a. When it has been brought to the attention of the bureau that the employer has unlawfully employed uninsured workers in violation of the provisions of section 65-0105; or
 - b. When the employer defaults in the payment of insurance premiums into the state fund; or
 - c. When the bureau, in exercise of the power and authority granted by section 65-0301, giving it full power and jurisdiction over and the supervision of, every employment and every place of employment for the purpose of issuing and enforcing all necessary and proper safety rules and regulations, finds that it is necessary to enjoin and restrain certain employers and employments in order to protect the lives and safety of the employees because of failure or refusal to comply with necessary and proper safety rules and regulations.

The courts of this state are vested with jurisdiction and power to grant such preventive relief in the instances herein set forth.

2. The provisions of chapter 32-06 of the North Dakota Revised Code of 1943 relating to injunction shall apply to proceedings instituted hereunder insofar as such provisions may be applicable.
3. In addition to the provisions of chapter 32-06, when the court has granted an immediate temporary injunction at the time of the commencement of the action the defendant employer shall be entitled to have a hearing by the court on the merits of the case without delay and upon three days written notice to the workmen's compensation bureau the court shall then proceed to hearing on the merits and render its decision.
4. In addition to the provisions of chapter 32-06, when the court has not granted an immediate temporary injunction at the time of the commencement of the action and the time for answer has expired either party shall

be entitled to have a hearing by the court on the merits of the case and upon ten days notice by either party to the other the court shall then proceed to hearing on the merits and render its decision.

Approved March 13, 1959.

CHAPTER 419

H. B. No. 590

(Dahl, Dick, Idso, Magnuson,
Hilleboe, Lindberg, Stockman,
Loewen)

REMEDIES AVAILABLE IN ACTION FOR
DELINQUENT PREMIUMS

AN ACT

To amend and reenact section 65-0426 of the North Dakota Revised Code of 1943, relating to the lien of a judgment obtained in an action brought for recovery of delinquent or defaulted workmen's compensation premiums and restricting the priority of such judgment lien to the same priority held by other judgments.

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

§ 1. **Amendment.**) Section 65-0426 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0426. Remedies Available in Action for Delinquent premiums; Exemptions Restricted.) In any action brought for the recovery of delinquent or defaulted premiums, the remedies of garnishment or attachment, or both, shall be available. No exemptions except absolute exemptions shall be allowed against any levy under execution pursuant to judgment recovered in such action.

Approved March 12, 1959.

CHAPTER 420

S. B. No. 83
(Trenbeath and Gefreh)

NONHAZARDOUS EMPLOYMENT

AN ACT

To amend and reenact section 65-0429 of the North Dakota Revised Code of 1943 relating to employers carrying workmen's compensation insurance on nonhazardous employment.

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

§ 1. **Amendment.**) Section 65-0429 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0429. Employers Carrying on Nonhazardous Employment May Come Under Law; Employee's Option.) Any employer carrying on any employment not classed as hazardous under the definition of that term contained in section 65-0102 who complies with the provisions of this title and who shall pay into the fund the premiums provided for under this chapter shall be covered under the fund and shall not be liable to respond in damages at common law or by statute for injuries to or the death of any employee, wherever occurring, during the period covered by such premiums. Any employee who elects before injury not to come under workmen's compensation insurance may do so by notifying the workmen's compensation bureau and the employer of such election in writing.

Approved March 10, 1959.

CHAPTER 421

H. B. No. 612

(Lowe, Hilleboe, Schmalenberger)

WORKMEN'S COMPENSATION BENEFITS

AN ACT

To amend and reenact sections 65-0509, 65-0511, and 65-0517 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to maximum and minimum benefits to be paid for total disability, for temporary partial disability, and for death, under the Workmen's Compensation Act.

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

§ 1. **Amendment.)** Section 65-0509 of the 1957 Supplement to the North Dakota Revised Code of 1943 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 percent of his weekly wage, 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 three dollars 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 fifty-three dollars 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.

§ 2. **Amendment.)** Section 65-0511 of the 1957 Supplement to the North Dakota Revised Code of 1943 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-eight dollars, except where an allowance for dependents is made in compliance with section 65-0509, nor less than fifteen dollars.

The weekly compensation for temporary partial disability with partial allowance for dependents shall not be more than thirty-eight dollars. 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.

§ 3. Amendment.) Section 65-0517 of the 1957 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 which shall be considered to have been not more than fifty dollars and not less than thirty dollars:

1. To the widow, if there is no child, fifty percent, and such compensation shall be paid until her death or remarriage;
2. To the widower, if there is no child, fifty percent 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 and 2, and in addition thereto, ten percent for each child. Such compensation, however, shall not exceed a total of eighty percent 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, thirty percent for one child and ten percent additional for each additional child, not exceeding, however, a total of eighty percent. 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 percent; if both are wholly dependent, twenty percent 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 eighty percent. 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 percent; if more than one are wholly dependent, thirty percent divided among such dependents, share and share alike; if none of them are wholly dependent but one or more are partly dependent, ten percent 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 percentage payable to the widow, widower, children, and dependent parents, the sum shall not exceed a total of eighty percent. 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, a 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.

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.

Approved March 4, 1959.

CHAPTER 422

H. B. No. 778
(Muggli)

PAYMENT OF SUM DUE COMPENSATION CLAIMANT

AN ACT

To amend and reenact section 65-0527 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to payment without probate proceedings of sums due the estate of a deceased workmen's compensation claimant.

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

§ 1. Amendment.) Section 65-0527 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0527. Bureau Without Probate Proceedings May Pay Spouse of Deceased Claimant Sum Due Deceased.) If a compensation claimant dies and there is due to his or her estate any sum not exceeding three hundred dollars, the bureau, without probate proceedings, may pay to the spouse of such claimant, if living, or in the event of his or her death or incompetency, to any adult person who has assumed or paid the expenses of the last illness or funeral expense of the said claimant, the balance remaining due as hereinbefore limited.

Approved March 4, 1959.

CHAPTER 423

H. B. No. 838
(Wheeler and Sorlie)

VOLUNTEER FIREMEN AND CIVIL DEFENSE
TRAINEES, COVERAGE

AN ACT

To amend and reenact sections 65-0601, 65-0602, 65-0603 and 65-0604 of the North Dakota Revised Code of 1943, and to create and enact section 65-06041 of the North Dakota Revised Code of 1943, relating to workmen's compensation for volunteer firemen and volunteer civil defense trainees, definitions, granting of protection and rights, termination of protection and rights of volunteer civil defense trainees, and reimbursement to fund by state for excess liabilities to volunteer civil defense trainees.

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

§ 1. Amendment.) Section 65-0601 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0601. Volunteer Firemen; Volunteer Civil Defense Trainees; in Training; Defined.) The term "volunteer fireman" shall mean any active member of an organized volunteer fire department of this state and any other person performing services as a volunteer fireman for a municipality at the request of the chief or other person in command of the fire department of such municipality or of any other officer of such municipality having authority to demand such service. Firemen who are paid a regular wage or stipend by the municipality as such, or whose entire time is devoted to such services for the municipality, for the purpose of this chapter, shall not be deemed volunteer firemen.

The term "volunteer civil defense trainee" shall mean any person serving without remuneration who is actively engaged in training to qualify as a civil defense worker in the event of an enemy attack on this country, and who is registered with the civil defense organization of a municipality, which has been officially recognized by the civil defense director for the state of North Dakota.

The term "in training" shall be limited to and shall mean only those periods of time, prior to an enemy attack on this country, during which such volunteer civil defense trainee is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a civil defense worker in the event of an enemy attack on this country.

The term "municipality" when used in reference to volunteer civil defense trainees shall mean state or district thereof, cities, counties, municipalities, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firemen.

§ 2. Amendment.) Section 65-0602 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0602. Volunteer Firemen and Volunteer Civil Defense Trainees Declared Employees; Covered by Workmen's Compensation; Termination.) Volunteer firemen and volunteer civil defense trainees are employees of the municipalities which they serve and are entitled to the same protection and rights under the provisions of this title as are full-time paid employees of such municipalities, except, however, that the protection and rights granted to volunteer civil defense trainees by this section shall terminate and cease in the event of an enemy attack on this country, except as to rights to benefits that shall have vested prior to the time of such attack.

§ 3. **Amendment.**) Section 65-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0603. Compensation Benefits; How Determined.) The basis of compensation and benefits to be paid to volunteer firemen and volunteer civil defense trainees under the terms of this chapter shall be established by the bureau by ascertaining the average weekly wage paid to full-time firemen by municipalities of this state maintaining paid departments. The amount of such weekly wage shall be the wage of a volunteer fireman and volunteer civil defense trainee, for the purpose of the allowance of compensation and benefits.

§ 4. **Amendment.**) Section 65-0604 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

65-0604. Assessment of Premiums.) For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firemen and volunteer civil defense trainees, the bureau shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out the provisions of this chapter, and shall fix the annual charges and assessments which shall be made against municipalities employing volunteer firemen and volunteer civil defense trainees. Such charge shall be a fixed sum for each one hundred of the population of the municipality involved, the same to be uniform as to all such municipalities but in proportion to the population thereof. The bureau may establish a minimum charge or assessment to be applicable to municipalities where the fixed rate or charge multiplied by the number of hundreds of the population thereof would amount to less than the amount of such minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

§ 5. **Creation.**) Section 65-06041 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

65-06041. Reimbursement by State for Liability in Excess of Premiums Collected.) Whenever liability on claims against the fund credited to the classification of volunteer civil defense trainees exceeds the amount of premiums paid into such fund, such excess liabilities shall be a general obligation of the state of North Dakota and be reimbursed to the workmen's compensation bureau for credit to that fund by legislative appropriation.

Approved March 12, 1959.