

of \$13.50 per week; provided, that if at the time of injury the employee receives wages of \$13.50 or less per week, then the compensation shall be the full amount of such wages per week; the compensation payable to partial dependents shall be subject to a maximum of \$27.00 per week and a minimum of \$13.50 per week; provided, that if the income loss of the said partial dependents by such death is \$13.50 or less per week, then the dependents shall receive the full amount of their income loss; this compensation shall be paid during dependency, but shall not exceed \$7,500 in case of a dependent wife, child, children, or orphan, and shall not exceed 300 weeks in case of any other dependent, payments to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 6. Minnesota Statutes 1945, Section 176.12, Subdivision 20, is hereby amended to read as follows:

176.12. **Dependents and allowances.** Subd. 20. **Order of payment.** Actual dependents shall be entitled to take compensation in the order named in subdivision 3 above, during dependency, until 66 $\frac{2}{3}$  per cent of the daily wage of the deceased at the time of injury shall have been exhausted; provided, that such compensation shall not exceed \$7,500 in case of a dependent wife, child, children, or orphan, or continue beyond 300 weeks in case of any other dependent; but the total compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate \$27.00 per week.

Sec. 7. **Effective date.** This act shall take effect July 1, 1947.

Approved April 28, 1947.

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#### CHAPTER 612—S. F. No. 322

*An act relating to workmen's compensation, defining and regulating occupational disease; amending Minnesota Statutes 1945, Section 176.66, Subdivision 2; Section 176.662; Section 176.664; Section 176.665; Section 176.667.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1945, Section 176.66, Subdivision 2, is hereby amended to read as follows:

**176.66. Occupational diseases; how regarded.** Subd. 2. **Disability or death caused by disease.** If an employee is disabled or dies and his disability or death is caused by a compensable occupational disease, he or his dependents are entitled to compensation for his death or for the duration of his disability according to the provisions of this chapter, except as otherwise provided in this chapter. If it be determined that such employee is able to earn wages at another occupation which is not unhealthful or injurious and such wages do not equal his full wages prior to the date of his disablement, the compensation payable is to be  $66\frac{2}{3}$  per cent of the difference between the daily wage of the workman at the time of disablement and the daily wage he is able to earn in his partially disabled condition, *as provided by section 176.11, subdivision 2.*

Sec. 2. Minnesota Statutes 1945, Section 176.662, is hereby amended to read as follows:

**176.662. Evidence; presumptions.** In the absence of conclusive evidence in favor of an employee's or a dependent's claim of disability or death from silicosis or asbestosis it shall be presumed not to be due to the nature of any occupation or employment within Laws 1943, Chapter 633, unless during the ten years immediately preceding the date of disablement the employee shall have been exposed to the inhalation of silica dust or asbestos dust over a period of not less than five years, the last *five* years of which exposure shall have been in this state.

In cases of silicosis or asbestosis complicated with tuberculosis of the lungs causing total disability or death compensation is payable as and for uncomplicated silicosis or asbestosis when the silicosis or asbestosis is an essential factor in causing such complications of tuberculosis of the lungs. In cases of complications with other diseases than tuberculosis of the lungs compensation shall be proportioned as provided in section 176.661.

Where an employee is afflicted with an occupational disease to such a degree that it is unduly hazardous for such employee to continue in any employment involving the hazard of exposure to such occupational disease, or where for other causes it is medically inadvisable and unduly hazardous for such employee to continue in an employment involving such hazard of occupational disease, the commission shall order the removal of such employee from such hazardous employment.

An employee so removed is eligible for retraining for a new occupation and compensation during such retraining,

as provided by the workmen's compensation law. In the event retraining benefits are not accepted by such employee, he is to be compensated during his period of unemployment following such removal as though he were wholly or partially disabled by reason of compensable injury, but such compensation shall not exceed a period of 25 weeks following the date of the order so removing such employee. In the event an employee is disabled, by reason of compensable injury, at the time an order for his removal is issued, the benefits provided by this section attach and begin at the termination of such period of compensable disability and constitute additional benefits. In the event retraining of the employee is undertaken during the period of such partial disability compensation is not to continue beyond 25 weeks from the date when such retraining is begun.

If an employee, after being so removed from hazardous employment, returns to such hazardous employment exposing him to any occupational disease, without the consent of the commission, neither he nor his dependents are entitled to compensation for the disablement or death of such employee caused by occupational disease.

An employee so removed from employment is entitled to compensation for disability, or his dependents to compensation for his death, from occupational disease, if such disablement of the employee occurs within three years, in case of silicosis or asbestosis, or within one year, in case of other occupational diseases, from the date of such employee's last exposure to the hazards of such occupational diseases prior to such removal.

Sec. 3. Minnesota Statutes 1945, Section 176.664, is hereby amended to read as follows:

**176.664. Must serve notice within 90 days.** Any claim for occupational disease is barred unless within 90 days after disablement of an employee as defined in section 176.66, subdivision 1, notice thereof in accordance with section 176.16 shall have been given to the employer, and unless the claim is filed with the commission within one year after the date of the employee's last exposure or within one year after the date of the last payment of compensation by the employer, or default in payment of compensation for occupational disease, except that in case of silicosis or asbestosis the claim may be filed with the commission within three years after the date of employee's last exposure or within three years of the date of the last payment of compensation by the

employer, or his default in payment. If disablement occurs within the last 90 days allowed by this section for filing claim with the commission, then the employee or his dependents shall be allowed a period of 90 days from the happening of such disablement to comply with the provisions of this section.

Compensation is not payable for partial disability from silicosis or asbestosis, except where such partial disability follows a compensable period of total disability. After the effective date of Laws 1943, Chapter 633, in the event of total disability or death from silicosis or asbestosis, compensation is to be paid during a transition period according to the following formula; if such total disability or death results during the first calendar month after the effective date of Laws 1943, Chapter 633, the total compensation payable for such disability or death, or both shall not exceed \$500; thereafter, the limit on the total compensation payable for total disability or death increases at the rate of \$75.00 per month, in each case such total is limited, pursuant to such formula, according to the month in which incapacity or death occurs. The liability of the employer to furnish medical benefits to the employee does not continue beyond the date when the last compensation is payable pursuant to such formula. Such progressive increase in the limits to the aggregate compensation and benefits for disability or death continues until the limits upon such benefits, as provided in the workmen's compensation act, is reached.

Sec. 4. Minnesota Statutes 1945, Section 176.665, is hereby amended to read as follows:

176.665. **Hearings.** Upon the filing with the commission of a claim petition by an employee or his dependents, claiming and demanding compensation and benefits as for occupational disease, if such claim petition and the answer thereto, filed with the commission, presents or raises a controverted medical question and in addition other questions of liability, the commissioner shall cause the petition and answer to be heard by the commission, a commissioner or referee, according to established practice, and permit all interested parties an opportunity to produce evidence relating to any issue involved.

Sec. 5. Minnesota Statutes 1945, Section 176.667, is hereby amended to read as follows:

176.667. **Employees to submit to medical examination.** Each employee, hereafter entering the service of an employer

whose business is one in which the hazard of silicosis or asbestosis is involved, who will be exposed to such hazard because of such employment, shall, at the request of the employer, submit to a medical examination for the purpose of determining whether such employee can safely be employed in such hazardous employment. The cost of such medical examination shall be borne by the employer.

Within one year after the effective date of Laws 1943, Chapter 633, and annually thereafter, each employee engaged in employment which exposes him to the hazards of silicosis or asbestosis shall submit to a medical examination for the purpose of determining whether he is affected in any degree by silicosis or asbestosis, or peculiarly or especially susceptible to either of such diseases. The cost of such examination shall be *paid by the employer*. The findings and reports of the doctor making each such examination, together with X-ray films and other original exhibits, shall be filed in the office of the commission, and available to the department of health, provided that the commission shall be empowered to order, in such cases as it shall deem advisable, that the X-ray films be filed in any other suitable depository which the commission may designate, such films to be available to the department of health. Any such report is a public record, but may be used only for the purposes of Laws 1943, Chapter 633, as amended.

Upon the termination of an employee's service the employer may request employee to submit to a final medical examination by giving the employee leaving his service ten days' notice in writing of the time and place that the medical examination is to be made, which notice may be delivered to such employee personally or mailed to his last known address. Any employee who wilfully fails or refuses to submit to such medical examination upon leaving the service of an employer, shall thereby waive any right to compensation from such employer for such occupational disease which later develops. The employer shall forthwith notify the commission in writing, of the employee's failure to submit to such medical examination, and such notice shall be filed in the office of the commission as in the case of medical reports, and shall serve as *notice of termination of liability* of such employer arising out of any claim by such individual, or by a subsequent employer because of the claim of such

individual. The cost of such examination shall be borne by the employer.

Sec. 6. **Effective date.** This act shall take effect July 1, 1947.

Approved April 28, 1947.

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CHAPTER 613—S. F. No. 438

*An act relating to wheelage taxes imposed upon motor vehicles by any city of the first class now or hereafter having a population of 450,000 inhabitants or over or an area of over 60 square miles and providing for distribution thereof; amending Minnesota Statutes 1945, Section 426.05.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1945, Section 426.05, is amended to read as follows:

426.05. **Wheelage tax.** Any borough, city, or village may impose *an annual* wheelage tax upon motor vehicles using the public streets or highways, provided that:

(1) No wheelage tax imposed by any borough, city, or village shall exceed a sum equal to 20 per cent tax imposed by the state in lieu of all other taxes, except such wheelage tax, upon motor vehicles using the public streets or highways; *provided, however, that the governing body of any city of the first class now or hereafter having a population of 450,000 inhabitants or over or an area of over 60 square miles may impose such wheelage tax in an amount not to exceed \$15.00 for trucks and \$10.00 for other motor vehicles;*

(2) No borough, city, or village shall impose a wheelage tax upon the vehicle of any person not a resident of such borough, city, or village, unless such vehicle shall be used principally upon the streets or highways of such borough, city, or village;

(3) No such wheelage tax shall be imposed upon any vehicle used upon the public streets or highways solely for the purpose of selling or peddling the products of the farm or garden occupied and cultivated by the owners of such vehicles;