

northern boundary line of the highway department right-of-way; thence southwesterly along the proposed northern boundary line of the highway department right-of-way to the point at which it intersects the North right-of-way line of the Chicago, Milwaukee, St. Paul, and Pacific Railroad right-of-way; thence westerly and northwesterly along said right-of-way line to a point at which it intersects the centerline of the alley between Portland and Ashland; thence east along the centerline of said alley to the point at which it intersects the centerline of North Victoria Street; thence north along the centerline of North Victoria Street to the point at which it intersects the centerline of the alley between Holly Avenue and Ashland Avenue; thence east along the centerline of said alley to the point at which it intersects the centerline of North Grotto Avenue; thence south along the centerline of North Grotto Avenue to the point at which it intersects the centerline of Holly Avenue; thence east along Holly Avenue to the point of beginning and there terminating.

Sec. 3. This act is in effect the day following its enactment.

Approved May 24, 1973.

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## CHAPTER 643—H.F.No.1053

[Coded in Part]

*An act relating to workmen's compensation; raising minimum weekly benefits; coordinating the payment of workmen's compensation death benefits with governmental death benefits; extending coverage to occupational diseases; amending Minnesota Statutes 1971, Sections 176.101, Subdivisions 1, 2, 3, and 4; 176.111, Subdivisions 19, 20, and by adding a subdivision; 176.131, Subdivision 7; 176.132, Subdivision 2; 176.151; 176.66, Subdivision 1; and repealing Minnesota Statutes 1971, Sections 176.66, Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9; 176.661 to 176.668.*

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

Section 1. Minnesota Statutes 1971, Section 176.101, Subdivision 1, is amended to read:

**176.101 WORKMEN'S COMPENSATION; BENEFITS; COMPENSATION SCHEDULE.** Subdivision 1. **TEMPORARY TOTAL DISABILITY.** For injury producing temporary total disability, 66<sup>2</sup>/<sub>3</sub>

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percent of the daily wage at the time of injury subject to a maximum compensation of ~~\$80~~ \$100 per week and a minimum compensation of \$17.50 per week. This compensation shall be paid during the period of disability, but not exceeding 350 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 2. Minnesota Statutes 1971, Section 176.101, Subdivision 2, is amended to read:

Subd. 2. **TEMPORARY PARTIAL DISABILITY.** In all cases of temporary partial disability the compensation shall be 66 $\frac{2}{3}$  percent of the difference between the daily wage of the worker at the time of injury and the wage he is able to earn in his partially disabled condition. This compensation shall be paid during the period of disability, but not beyond 350 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation of ~~\$73~~ \$100 per week. If the employer does not furnish the worker with work which he can do in his temporary partially disabled condition and he is unable to procure such work with another employer, after reasonably diligent effort, the commission may fix a rate of compensation to be paid to the worker during the period of disability and unemployment, but not beyond 350 weeks; which shall be based upon the percentage of his general physical disability as determined from competent medical testimony adduced at a hearing before a compensation judge, a commissioner, or the commission.

Sec. 3. Minnesota Statutes 1971, Section 176.101, Subdivision 3, is amended to read:

Subd. 3. **PERMANENT PARTIAL DISABILITY.** For the permanent partial disability from the loss of a member the compensation for total disability during the healing period shall be as stated in subdivision 1. For partial disability during the healing period the compensation shall be as stated in subdivision 2. The healing period shall not exceed 104 weeks. Thereafter and in addition thereto, compensation shall be that named in the following schedule, subject to a maximum compensation of ~~\$73~~ \$100 per week:

(1) For the loss of a thumb, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 65 weeks;

(2) For the loss of a first finger, commonly called index finger, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 40 weeks;

(3) For the loss of a second finger, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 35 weeks;

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(4) For the loss of a third finger, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 25 weeks;

(5) For the loss of a fourth finger, commonly called the little finger, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 20 weeks;

(6) The loss of the first phalange of the thumb or of any finger, is considered equal to the loss of one-half of the thumb or finger and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the thumb or finger;

(7) The loss of one and one-half or more phalanges is considered equal to the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(8) For the loss of a great toe, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 35 weeks;

(9) For the loss of a toe other than a great toe, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 15 weeks;

(10) The loss of the first phalange of any toe is considered equal to the loss of one-half of the toe, and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the toe;

(11) The loss of one and one-half or more phalanges is considered equal to the loss of the entire toe;

(12) For the loss of a hand, not including the wrist movement, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(13) For the loss of a hand, including wrist movement, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;

(14) For the loss of an arm, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 270 weeks;

(15) Amputation of the arm below the elbow is considered the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it is considered the loss of an arm;

(16) For the loss of a foot, not including ankle movement, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 140 weeks;

(17) For the loss of a foot, including ankle movement, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 165 weeks;

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(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;

(20) Amputation of a leg below the knee is considered as equal to the loss of a foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member, otherwise it is considered as equal to the loss of a leg;

(21) For the loss of an eye,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 160 weeks;

(22) For the complete permanent loss of hearing in one ear,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 85 weeks;

(23) For the complete permanent loss of hearing in both ears,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 170 weeks;

(24) For the loss of an eye and a leg,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(25) For the loss of an eye and an arm,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(26) For the loss of an eye and a hand,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 450 weeks;

(27) For the loss of an eye and a foot,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 400 weeks;

(28) For the loss of two arms, other than at the shoulder,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(29) For the loss of two hands,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(31) For the loss of two feet,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(32) For the loss of one arm and the other hand,  $66\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

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(33) For the loss of one hand and one foot, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(34) For the loss of one leg and the other foot, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(35) For the loss of one leg and one hand, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(36) For the loss of one arm and one foot, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(37) For the loss of one arm and one leg, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(38) For loss of the voice mechanism, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(39) For disfigurement not resulting from the loss of a member or other injury specifically compensated, affecting the employability of the injured person in the employment in which he was injured or other employment for which the employee is then qualified, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury during such period as the commission determines, not beyond 90 weeks;

(40) For permanent partial disability resulting from injury to the back, 66 $\frac{2}{3}$  percent of the daily wage at the time of injury for that proportion of 350 weeks which is represented by the percentage of such permanent partial disability as is determined from competent testimony adduced at a hearing before a compensation judge, a commissioner, or the commission;

(41) When an employee sustains concurrent injuries resulting in concurrent disabilities he shall receive compensation only for the injury which entitled him to the largest amount of compensation, but this does not affect liability for disfigurement affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subdivision 5;

(42) In all cases of permanent partial disability it is considered that the permanent loss of the use of a member is equivalent to and draws the same compensation as the loss of that member, but the compensation in and by this schedule provided shall be in lieu of all other compensation in such cases, except as otherwise provided by this section;

In the event a workman has been awarded, or is entitled to receive, a compensation for loss of use of a member under any workmen's compensation law, and thereafter sustains a loss of such member under circumstances entitling him to compensation there-

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for under the workmen's compensation act, as amended, the amount of compensation awarded, or that he is entitled to receive, for such loss of use, is to be deducted from the compensation due under the schedules of this section for the loss of such member, provided, that the amount of compensation due for the loss of the member caused by the subsequent accident is in no case less than 25 percent of the compensation payable under the schedule of this section for the loss of such member;

(43) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

(44) In cases of permanent partial disability caused by simultaneous injury to two or more members, the applicable schedules in this subdivision shall be increased by 15 percent. This clause shall not apply when the injuries are compensated under paragraphs 22 to 37 inclusive, of this subdivision. In cases of partial disability due to injury to both eyes resulting in less than total loss of vision in one or both eyes compensation shall be paid at the prescribed rate during that part of 450 weeks which the extent of the combined injury to both eyes bears to the complete loss of industrial vision;

(45) The commission may make or revise rules for the determination of the extent of the impairment of the industrial use of one or both eyes taking into account all primary coordinate factors of vision. These rules shall be made or revised after consultation with experts on industrial vision and after public notice to and hearing of interested parties;

(46) In all cases of permanent partial disability not enumerated in this schedule the compensation shall be 66 $\frac{2}{3}$  percent of the difference between the daily wage of the worker at the time of the injury and the daily wage he is able to earn in his partially disabled condition, subject to a maximum of ~~\$73~~ \$100 per week, and continue during disability, not beyond 350 weeks; and if the employer does not furnish the worker with work which he can do in his permanently partially disabled condition and he is unable to secure such work with another employer after a reasonably diligent effort, the commission may fix a rate of compensation to be paid to the worker during the period of his unemployment, not beyond 350 weeks, which is to be based upon the percentage of his general physical disability as determined from competent medical testimony adduced at a hearing before a compensation judge, a commissioner, or the commission.

Sec. 4. Minnesota Statutes 1971, Section 176.101, Subdivision 4, is amended to read:

Changes or additions indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **PERMANENT TOTAL DISABILITY.** For permanent total disability, as defined in subdivision 5, the compensation shall be 66 $\frac{2}{3}$  percent of the daily wage at the time of the injury, subject to a maximum compensation of ~~\$80~~ \$100 per week and a minimum compensation of \$17.50 per week. If the wages of the employee at the time of the injury are \$17.50 or less per week, he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if such disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. Such reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of his confinement in such institution, unless he has wholly dependent on him for support some person named in section 176.111, subdivisions 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of such confinement, shall be paid for the benefits of such dependent person during dependency. The dependency of such persons shall be determined as though the employee were deceased.

Sec. 5. Minnesota Statutes 1971, Section 176.111, Subdivision 19, is amended to read:

Subd. 19. **COMPENSATION; MAXIMUM, MINIMUM.** The compensation payable in case of death to persons wholly dependent is subject to a maximum compensation of ~~\$80~~ \$100 per week and a minimum of \$17.50 per week. If at the time of injury the employee receives wages of \$17.50 or less per week, then the compensation shall be the full amount of the wages per week. The compensation payable to partial dependents is subject to a maximum of ~~\$80~~ \$100 per week and a minimum of \$17.50 per week. If the income loss of partial dependents by such death is \$17.50 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 ~~\$35,000~~ \$40,000 in case of a dependent wife, child, 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 1971, Section 176.111, Subdivision 20, is amended to read:

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Subd. 20. **ACTUAL DEPENDENTS, COMPENSATION.** Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until 66% percent of the daily wage of the deceased at the time of injury is exhausted. This compensation shall not exceed ~~\$35,000~~ \$40,000 in case of a dependent wife, child, or orphan or continue beyond 300 weeks in case of any other dependent. The total compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate ~~\$80~~ \$100 per week.

Sec. 7. Minnesota Statutes 1971, Section 176.111, is amended by adding a subdivision to read:

Subd. 21. **DEATH BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.** The following provisions shall apply to any dependent entitled to receive weekly compensation benefits under subdivisions 19 and 20 as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

(a) The combined total of weekly government survivor benefits and workmen's compensation death benefits provided under this section shall not exceed 100 percent of the weekly wage being earned by the deceased employee at the time of the injury causing his death; provided, however, that no state workmen's compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage; and

(b) in the event that weekly workmen's compensation benefits payable as the result of an employee's death are reduced below the maximum benefit to which a dependent is otherwise entitled under this section, the 300 week limit on compensation payments provided in subdivisions 19 and 20 shall not apply.

Sec. 8. Minnesota Statutes 1971, Section 176.131, Subdivision 7, is amended to read:

Subd. 7. Under subdivisions 1 and 2, an occupational disease ~~shall not~~ may be deemed to be the personal (second) injury.

If the subsequent disability for which reimbursement is claimed is an occupational disease, and if, subsequent to registration as provided by subdivisions 4 and 5, the employee has been employed by the employer in employment similar to that which initially resulted in such occupational disease, no reimbursement shall be paid to the employer.

Sec. 9. Minnesota Statutes 1971, Section 176.132, Subdivision 2, is amended to read:

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Subd. 2. **AMOUNT.** (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives after January 1, 1972, under section 176.101, subdivision 1 or subdivision 4, and \$60 per week.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or \$60 a week, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and \$60 per week.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent.

Sec. 10. Minnesota Statutes 1971, Section 176.151, is amended to read:

176.151 **TIME LIMITATIONS.** The time within which the following acts shall be performed shall be limited to the following periods, respectively:

(1) Actions or proceedings by an injured employee to determine or recover compensation, two years after the employer has made written report of the injury to the commission, but not to exceed six years from the date of the accident.

(2) Actions or proceedings by dependents to determine or recover compensation, two years after the receipt by the commission of written notice of death, given by the employer, but not to exceed six years from the date of injury, provided, however, if the employee was paid compensation for the injury from which the death resulted, such actions or proceedings by dependents must be

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commenced within two years after the receipt by the commission of written notice of death, given by the employer, but not to exceed six years from the date of death. In any such case, if a dependent of the deceased, or any one in his behalf, gives written notice of such death to the commission, the commission shall forthwith give written notice to the employer of the time and place of such death. In case the deceased was a native of a foreign country and leaves no known dependent within the United States, the commission shall give written notice of the death to the consul or other representative of the foreign country forthwith.

(3) Once compensation has been paid to the employee, he must bring any action for further compensation within eight years from the date compensation was last paid except in the case of lump sum payments made pursuant to section 176.021, subdivision 3, in which case any action must be commenced within eight years from what would have been the date of expiration of weekly benefits under section 176.101 had not lump sum payments been made.

(4) Clause (3) shall not apply where any existing order or award provides for further payments of compensation for recurrences of the disability from the injury to the employee; or is an injury of a nature where in the opinion of the commission there is a possibility of a future disability and the commission so finds.

(5) Clause (3) shall not apply where the employee's injury for which he has received compensation is such that as part of his medical care he is entitled to the future replacement or repair of crutches, apparatus, artificial members, glasses, spectacles, artificial eyes, dental bridge work, dentures or artificial teeth, hearing aids, canes, wheel chairs, or other prosthetic devices and his claim relates to items in this paragraph, or to future medical care as it relates to items in this paragraph.

(6) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time specified in this section, the period of limitation in any such case shall be extended for two years from the date when the incapacity ceases.

(7) In the case of injury caused by x-rays, radium, radioactive substances or machines, ~~or~~ ionizing radiation, or any other occupational disease, the time limitations otherwise prescribed by Minnesota Statutes 1961, Chapter 176, and acts amendatory thereof, shall not apply, but the employee shall give notice to the employer and commence his action within two years after the employee has knowledge of the cause of such injury and the injury has resulted in disability.

Sec. 11. Minnesota Statutes 1971, Section 176.66, Subdivision 1, is amended to read:

Changes or additions indicated by underline, deletions by ~~strikeout~~.

**176.66 OCCUPATIONAL DISEASES; HOW REGARDED.** Subdivision 1. **DISABILITY, DISABLEMENT.** The disablement of an employee resulting from an occupational disease, ~~except where specifically otherwise provided, is to be treated as the happening of an accident shall be regarded as a personal injury within the meaning of the workmen's compensation law and the procedure and practice provided applies to all proceedings under this section, except where specifically otherwise provided herein. When used in this section, "disability" means the state of being disabled from earning full wages at the work at which the employee was last employed and "disablement" means the act of becoming so disabled.~~

**Sec. 12. REPEALER.** Minnesota Statutes 1971, Sections 176.66, Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9; 176.661; 176.662; 176.663; 176.664; 176.665; 176.666; 176.667; and 176.668 are repealed.

**Sec. 13. EFFECTIVE DATE.** The provisions of sections 1 to 6 shall be effective on September 1, 1973; the provisions of all other sections of this act shall be effective on July 1, 1973.

Approved May 24, 1973.

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## CHAPTER 644—H.F.No.1065

*An act relating to probate; regulating the availability of summary proceedings; amending Minnesota Statutes 1971, Section 525.51, Subdivision 5.*

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

Section 1. Minnesota Statutes 1971, Section 525.51, Subdivision 5, is amended to read:

Subd. 5. **PROBATE CODE; SUMMARY PROCEEDINGS; MAXIMUM ESTATE.** In any summary, special, or general administration wherein it appears that the estate will not be exhausted in payment of the priority items enumerated in the foregoing subdivisions, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 525.145, does not exceed the value of \$15,000 ~~\$30,000~~. Where such closing and distribution of assets is made pursuant to the terms of a will, no decree shall issue until a hearing has been held on the admission of the will to probate as provided in section 525.24.

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