

**WORKMEN'S
COMPENSATION LAWS
OF THE STATE
OF CALIFORNIA**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649021208

Workmen's Compensation Laws of the State of California by Frank C. Jordan

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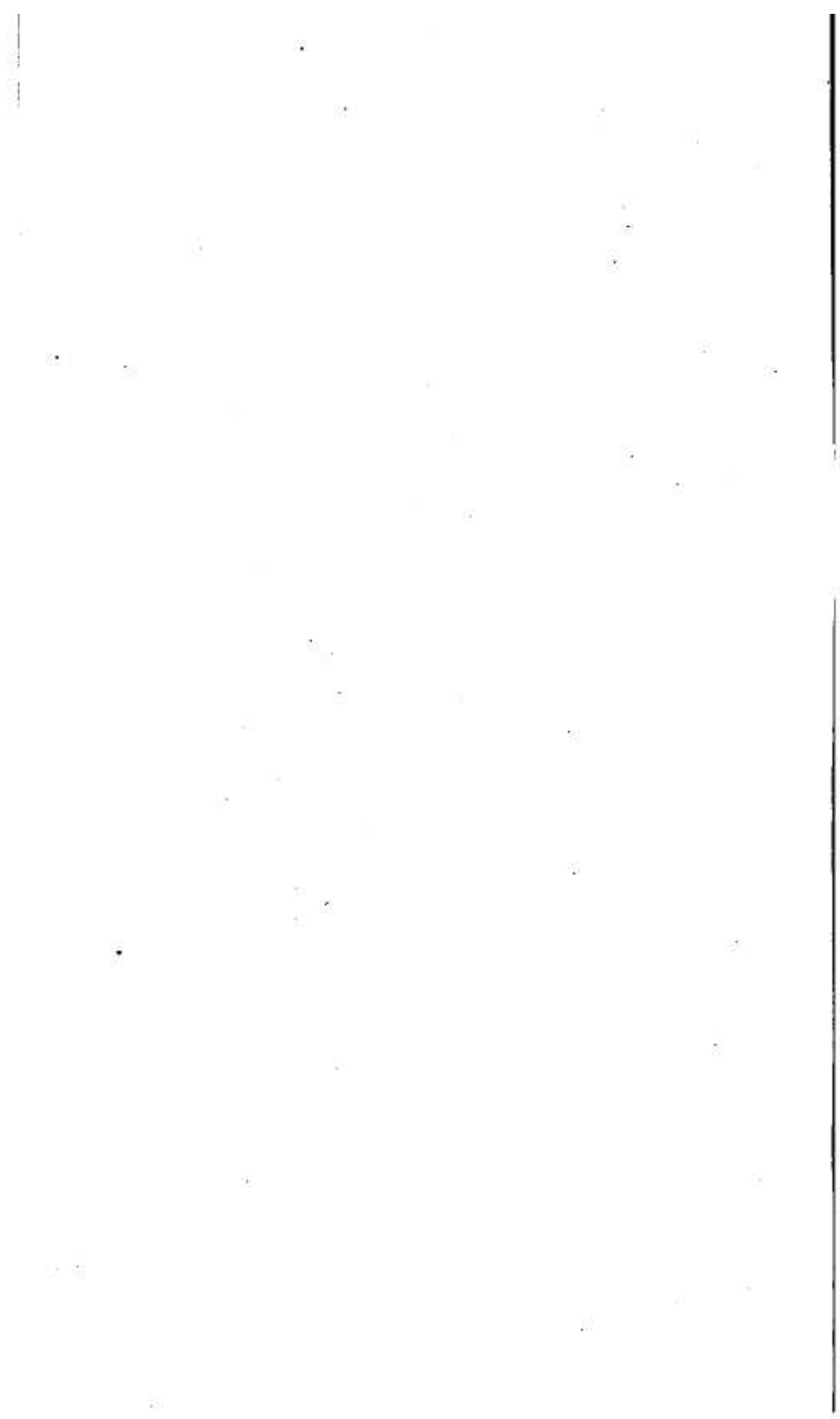
Roseberry Employers' Liability Act
Effective September 1, 1911
Workmen's Compensation, Insurance and
Safety Act of 1913
Effective January 1, 1914

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APR 24 1914
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INTRODUCTORY.

Except as to employment in farm labor and domestic service, the Roseberry Employers' Liability Act, which went into effect September 1, 1911, has been superseded by the so-called Boynton Workmen's Compensation Act, which takes effect January 1, 1914.

The new act is a broad measure relating to compensation, insurance and industrial safety. It establishes an Industrial Accident Commission, to be composed of three members, to administer its compensation features, to maintain a mutual insurance fund and to administer its provisions relative to safety.

The new act applies to all employments, including the State and all its governmental agencies, and all private employments in the ordinary course of the trade, business, profession or occupation of the employer, except farm labor, domestic service and casual employment. The Roseberry Act of 1911 is not repealed; and employments in farm labor and domestic service therefore continue to be covered by that act.

The compensation liability defined by the new act is intended to be compulsory, but the intention is not very clearly expressed. The compensation remedy is exclusive, except where there is gross negligence or wilful misconduct on the part of the employer.

Compensation is payable for every injury caused by accident arising out of and in the course of employment, unless due to intoxication or wilful misconduct, and is payable generally on a sixty-five per cent basis, with fixed maximum and minimum limitations, and for varying periods of time, depending upon the nature of the disability.

Insurance is optional, but compensation insurance is subjected to many regulations. Every policy must provide that the insurer shall be directly liable to the employee, that notice to the insured shall be notice to the insurer, that the insolvency of the insured shall not relieve the insurer, etc. There are also provisions for substituting the insurer in place of the insured in proceedings for compensation, and subrogating the insurer to the rights of the insured. If a policy is limited, that fact must be conspicuously stated on the face of the policy. No policy may insure the employer against liability for gross negligence or wilful misconduct; and if in case of such liability an insurer has to pay compensa-

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tion to an injured employee, the insurer is subrogated to the rights of such employee as against the insured.

A State Compensation Insurance Fund is established, to be supervised and administered by the Industrial Accident Commission, which is given wide powers and discretion with regard thereto. But after a reasonable time in which to become established, the fund is to be "fairly" competitive with other insurance carriers and its rates must be so fixed as to provide full reserves.

The text of the new law, preceded by a brief analysis outlining its compensation features, and followed by the text of the Roseberry Act of 1911, is here given:

SYSTEM PROVIDED FOR.

Compulsory (intended) system of compensation, supervised and administered by the Industrial Accident Commission, consisting of three members, with a State Insurance Fund managed by said Commission.

EMPLOYMENTS COVERED.

All employments, public or private, except employments both casual and not in the ordinary course of the trade, business, etc., of employer, farm labor and domestic service (Sec. 14), and also except such employments in interstate commerce as are not subject to the legislative power of the State (Sec. 86).

INJURIES COVERED.

Those caused by accident arising out of and in the course of employment, unless due to intoxication or wilful misconduct (Sec. 12).

SUITS FOR DAMAGES.

Only when the employer is guilty of gross negligence or wilful misconduct, in which case the employee may, at his option, either claim compensation under the act or sue at law for damages. Otherwise the compensation remedy under the act is exclusive (Sec. 12).

SPECIAL CONTRACTS.

No contract, rule or regulation, shall exempt the employer from liability for compensation under the act.

No release of liability or settlement agreement is valid unless

it provides for the payment of full compensation under the act, or until and unless approved by the Commission (Sec. 32).

INSURANCE.

Any employer covered by the act may insure his liability in a mutual or other company, or he may provide some other arrangement with his employees for the payment of compensation under the act. An injured employee may recover directly of the insurer. And every policy must provide that the insurer shall be directly liable to the employee, that notice to the insured shall be notice to the insurer, that the employee shall have a first lien upon any amount owing on account of such policy to the employer, and that the insolvency of the insured shall not relieve the insurer, etc. The insurer may be substituted in place of the insured in any proceedings for compensation, and any insurance carrier paying compensation or assuming the liability of the employer therefor, may be subrogated to all the rights and duties of the employer. If a policy is limited, that fact must be conspicuously stated upon its face. No policy may insure the employer against liability for gross negligence or wilful misconduct, and any insurance carrier liable therefor shall be subrogated to the rights of the employee as against the employer (Secs. 34 and 35).

The act establishes a State Compensation Insurance Fund, to be managed by the Industrial Accident Commission, which commission is given wide powers and discretion. This Fund must, after a reasonable time in which to become established, be so managed as to compete "fairly" with other insurance carriers, and its rates must be so fixed as to provide full reserves (Secs. 36-50).

WAITING PERIOD.

To be compensated, disability must continue for more than two weeks. Compensation begins on the fifteenth day after the injured employee leaves work as a result of the injury (Sec. 15).

NOTICE TO EMPLOYER OF ACCIDENT.

No claim for compensation under the act can be maintained unless written notice, stating the essential details concerning the accident, is served upon the employer within thirty days after the accident. But actual notice on the part of the employer or his agent is equivalent to such service. Failure to give notice, or any