

(i) Right to compensation as exclusive remedy

The right to compensation or benefits under this chapter shall be the exclusive remedy to an employee when he is injured, or to his eligible survivors or legal representatives if he is killed, by the negligence or wrong of any other person or persons in the same employ: *Provided*, That this provision shall not affect the liability of a person other than an officer or employee of the employer.

(Mar. 4, 1927, ch. 509, §33, 44 Stat. 1440; June 25, 1938, ch. 685, §§12, 13, 52 Stat. 1168; Pub. L. 86-171, Aug. 18, 1959, 73 Stat. 391; Pub. L. 92-576, §15(f)-(h), Oct. 27, 1972, 86 Stat. 1262; Pub. L. 98-426, §21, Sept. 28, 1984, 98 Stat. 1652.)

Editorial Notes**AMENDMENTS**

1984—Subsec. (b). Pub. L. 98-426, §21(a), substituted “Acceptance of compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or the Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such acceptance” for “Acceptance of such compensation under an award in a compensation order filed by the deputy commissioner or Board shall operate as an assignment to the employer of all right of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such award” and inserted at end “If the employer fails to commence an action against such third person within ninety days after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation. For the purpose of this subsection, the term ‘award’ with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board.”

Subsec. (e)(2). Pub. L. 98-426, §21(b), struck out “, less one-fifth of such excess which shall belong to the employer” after “or to the representative”.

Subsec. (f). Pub. L. 98-426, §21(c)(1), inserted “net” before “amount recovered”.

Pub. L. 98-426, §21(c)(2), inserted at end “Such net amount shall be equal to the actual amount recovered less the expenses reasonably incurred by such person in respect to such proceedings (including reasonable attorneys’ fees).”

Subsec. (g). Pub. L. 98-426, §21(d), designated existing provisions as par. (1), substituted “If the person entitled to compensation (or the person’s representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person’s representative) would be entitled under this chapter, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer’s carrier, before the settlement is executed, and by the person entitled to compensation (or the person’s representative)” for “If compromise with such third person is made by the person entitled to compensation or such representative of an amount less than the compensation to which such person or representative would be entitled to under this chapter the employer shall be liable for compensation as determined in subsection (f) only if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such

injury or death within thirty days after such compromise is made”, inserted at end “The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.”, and added pars. (2) to (4).

1972—Subsecs. (b), (e)(1)(A). Pub. L. 92-576, §15(f), (g), inserted “or Board” after “deputy commissioner”.

Subsec. (g). Pub. L. 92-576, §15(h), substituted “if the written approval of such compromise is obtained from the employer and its insurance carrier by the person entitled to compensation or such representative at the time of or prior to such compromise on a form provided by the Secretary and filed in the office of the deputy commissioner having jurisdiction of such injury or death within thirty days after such compromise is made” for “if such compromise is made with his written approval”.

1959—Subsec. (a). Pub. L. 86-171 inserted “or a person or persons in his employ” after “employer” and substituted “he need not elect whether” for “he may elect, by giving notice to the deputy commissioner in such manner as the Secretary may provide.”

Subsec. (b). Pub. L. 86-171 inserted “unless such person shall commence an action against such third person within six months after such award”.

Subsec. (c). Pub. L. 86-171 struck out “, whether or not the representative has notified the deputy commissioner of his election” after “third person”.

Subsec. (d). Pub. L. 86-171 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 86-171 substituted “Secretary” for “Commission” in par. (1)(D) and inserted in par. (2) “less one-fifth of such excess which shall belong to the employer”.

Subsec. (f). Pub. L. 86-171 struck out “or the representative elects to recover damages against such third person and notifies the Secretary of his election and” before “institutes” and substituted “subsection (b)” for “section 913 of this title” and “Secretary” for “Commission”.

Subsec. (g). Pub. L. 86-171 corrected reference to “subsection (e)” to read “subsection (f)”.

Subsecs. (h), (i). Pub. L. 86-171 redesignated subsec. (i) as (h) and struck out former subsec. (h) that permitted the deputy commissioner to make an election for a minor or to authorize the parent or guardian to make the election.

1938—Subsec. (b). Act June 25, 1938, §12, inserted “under an award in a compensation order filed by the deputy commissioner” and struck out “, whether or not the person entitled to compensation has notified the deputy commissioner of his election” at end of sentence.

Subsec. (e). Act June 25, 1938, §12, redesignated par. (1)(C) as par. (1)(C) and (D) and included in said par. (1)(D) the present value of the cost of benefits furnished.

Subsec. (i). Act June 25, 1938, §13, added subsec. (i).

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, and applicable both with respect to claims filed after such date and to claims pending on such date, see section 28(a) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

§ 934. Compensation notice

Every employer who has secured compensation under the provisions of this chapter shall keep posted in a conspicuous place or places in

and about his place or places of business type-written or printed notices, in accordance with a form prescribed by the Secretary, stating that such employer has secured the payment of compensation in accordance with the provisions of this chapter. Such notices shall contain the name and address of the carrier, if any, with whom the employer has secured payment of compensation and the date of the expiration of the policy.

(Mar. 4, 1927, ch. 509, §34, 44 Stat. 1441; Pub. L. 98-426, §27(a)(2), Sept. 28, 1984, 98 Stat. 1654.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-426 substituted “Secretary” for “commission”. See Transfer of Functions note set out under section 902 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

§ 935. Substitution of carrier for employer

In any case where the employer is not a self-insurer, in order that the liability for compensation imposed by this chapter may be most effectively discharged by the employer, and in order that the administration of this chapter in respect of such liability may be facilitated, the Secretary shall by regulation provide for the discharge, by the carrier for such employer, of such obligations and duties of the employer in respect to such liability, imposed by this chapter upon the employer, as it considers proper in order to effectuate the provisions of this chapter. For such purposes (1) notice to or knowledge of an employer of the occurrence of the injury shall be notice to or knowledge of the carrier, (2) jurisdiction of the employer by a deputy commissioner, the Board, or the Secretary, or any court under this chapter shall be jurisdiction of the carrier, and (3) any requirement by a deputy commissioner, the Board, or the Secretary, or any court under any compensation order, finding, or decision shall be binding upon the carrier in the same manner and to the same extent as upon the employer.

(Mar. 4, 1927, ch. 509, §35, 44 Stat. 1441; Pub. L. 92-576, §15(i), Oct. 27, 1972, 86 Stat. 1262; Pub. L. 98-426, §27(a)(2), Sept. 28, 1984, 98 Stat. 1654.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-426 substituted “Secretary” for “commission”. See Transfer of Functions note set out under section 902 of this title.

1972—Pub. L. 92-576 inserted reference to the Board in cls. (2) and (3).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-426 effective Sept. 28, 1984, see section 28(e)(1) of Pub. L. 98-426, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-576 effective 30 days after Oct. 27, 1972, see section 22 of Pub. L. 92-576, set out as a note under section 902 of this title.

§ 936. Insurance policies

(a) Every policy or contract of insurance issued under authority of this chapter shall contain (1) a provision to carry out the provisions of section 935 of this title, and (2) a provision that insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the carrier from payment of compensation for disability or death sustained by an employee during the life of such policy or contract.

(b) No contract or policy of insurance issued by a carrier under this chapter shall be canceled prior to the date specified in such contract or policy for its expiration until at least thirty days have elapsed after a notice of cancellation has been sent to the deputy commissioner and to the employer in accordance with the provisions of subsection (c) of section 912 of this title.

(Mar. 4, 1927, ch. 509, §36, 44 Stat. 1441.)

§ 937. Certificate of compliance with chapter

No stevedoring firm shall be employed in any compensation district by a vessel or by hull owners until it presents to such vessel or hull owners a certificate issued by a deputy commissioner assigned to such district that it has complied with the provisions of this chapter requiring the securing of compensation to its employees. Any person violating the provisions of this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

(Mar. 4, 1927, ch. 509, §37, 44 Stat. 1442.)

§ 938. Penalties

(a) Failure to secure payment of compensation

Any employer required to secure the payment of compensation under this chapter who fails to secure such compensation shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or by both such fine and imprisonment; and in any case where such employer is a corporation, the president, secretary, and treasurer thereof shall be also severally liable to such fine or imprisonment as herein provided for the failure of such corporation to secure the payment of compensation; and such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any compensation or other benefit which may accrue under the said chapter in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by section 932 of this title.

(b) Avoiding payment of compensation

Any employer who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secretes, or destroys any property belonging to such employer, after one of his employees has been injured within the purview of