

1998 BILL 204

Second Session, 24th Legislature, 46 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 204

**WORKERS' COMPENSATION
AMENDMENT ACT, 1998**

MR. HERARD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 204
Mr. Herard

BILL 204

1998

WORKERS' COMPENSATION AMENDMENT ACT, 1998

(Assented to , 1998)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends SA
1981 cV-16

1 The *Workers' Compensation Act* is amended by this Act.

2 Section 1(1) is amended

(a) by adding the following after clause (j):

(j.1) "highway" means highway as defined in the
Motor Vehicle Administration Act;

(b) by adding the following after clause (q):

(q.1) "motor vehicle" means a motor vehicle as defined
in the *Motor Vehicle Administration Act*;

**3 Section 18 is amended by adding the following after
subsection (1):**

(1.1) Subsection (1) does not apply where a worker suffers
personal injury or dies as a result of an accident

(a) while being transported by any mode of
transportation, other than a motor vehicle, in
respect of which public liability insurance is
required to be carried, or

Explanatory Notes

- 1 Amends chapter W-16 of the Statutes of Alberta, 1981.
- 2 Insertion of definitions of “highway” and “motor vehicle”.
- 3 Section 18 presently reads:

18(1) If an accident happens to a worker entitling him or his dependants to compensation under this Act, neither the worker, his legal personal representatives, his dependants nor his employer has any cause of action in respect of or arising out of the personal injury suffered by or the death of the worker as a result of the accident

 - (a) *against any employer, or*
 - (b) *against any worker of an employer,*

- (b) resulting from the use or operation of a motor vehicle by any other person on a highway

where the person who caused or contributed to the injury or death is a person other than the employer of the worker or a worker of that employer.

(1.2) Section 17 applies with all necessary modifications to an action or proceeding under subsection (1.1).

4 The following is added after section 34:

Medical panel

34.1(1) Where there are substantial differences in medical reports that may affect whether compensation is to be paid or the amount of compensation to be paid to the worker, the worker may request that the Board convene a medical panel.

(2) Upon receiving a request from a worker under subsection (1), the Board shall review the medical reports and may convene a medical panel to investigate and report on the worker's condition.

(3) If the Board does not convene a medical panel, the Board shall notify the worker of its decision and provide reasons.

(4) A medical panel shall consist of

- (a) one physician selected by the Board,
- (b) one physician selected by the worker, and
- (c) one physician selected by the members appointed under clauses (a) and (b).

(5) No member of a medical panel shall be an employee of the Board.

(6) A medical panel shall be provided with all medical reports and relevant information held by the Board.

(7) As part of its investigation, a medical panel may require the worker to undergo a medical examination.

in an industry to which this Act applies when the conduct of that employer or worker that caused or contributed to the injury arose out of and in the course of employment in an industry to which this Act applies.

(2) In an action taken pursuant to section 17(2)(b) and arising out of injury to or death of a worker, a defendant may not bring third party or other proceedings against any employer or worker whom the plaintiff may not, by reason of this section bring an action against, but if the court is of the opinion that that employer or worker, by his fault or negligence, contributed to the damage or loss of the plaintiff, it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

4 Medical panel.

(8) If a worker fails to undergo or in any way obstructs a medical examination, the Board may suspend the worker's right to compensation until the examination has taken place.

(9) After completing its investigations, a medical panel must report to the Board on the nature or extent of the injury for which the worker is seeking compensation.

(10) A copy of any report provided to the Board by a medical panel or any member of a medical panel shall also be provided to the worker.

(11) If a majority of the members of a medical panel agree in the report, then the Board shall accept those findings concerning the medical issue discussed in the report in making any decision on the worker's entitlement to compensation unless the contrary is shown by some other compelling evidence.

(12) If there is no agreement by the members of a medical panel on the nature or extent of the injury for which the worker is seeking compensation, then they shall each submit their reports to the Board, which will consider them in making any decision on the worker's entitlement to compensation.

(13) The Board shall pay

- (a) the costs of a medical panel,
- (b) the costs of any medical investigation or medical examination required by a medical panel, and
- (c) the reasonable expenses of the worker relating to a medical panel.

5 This Act comes into force on Proclamation.

5 Coming into force.

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Explanatory Notes