

struments wherein any tract of land is described as being in the assessor's plat shall be construed to mean the assessor's plat of lands with its amendments as it stood at the date of making such assessment or instrument.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 10, 1917.

No. 611, S.]

[Published July 13, 1917.

## CHAPTER 624

AN ACT to codify and amend sections 2394—1 to 2394—31, inclusive, of the statutes, relating to workmen's compensation and making an appropriation.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Sections 2394—1 to 2394—31, inclusive, are codified and amended to read:

Section 2394—1. 1. In any action to recover damages for a personal injury sustained within this state by an employe while engaged in the line of his duty as such, or for death resulting from personal injury so sustained, in which recovery is sought upon the ground of want of ordinary care of the employer, or of any officer, agent, or servant of the employer, it shall not be a defense:

(1) That the employe either expressly or impliedly assumed the risk of the hazard complained of.

(2) When such employer has at the time of the accident in a common employment \* \* \* *three* or more employes, that the injury or death was caused in whole or in part by the want of ordinary care of a fellow servant.

(3) When such employer has at the time of the accident, in a common employment \* \* \* *three* or more employes, that the injury or death was caused in whole or in part by the want of ordinary care of the injured employe, where such want of ordinary care was not wilful.

2. Any employer who has elected to pay compensation as hereinafter provided shall not be subject to the provisions of this section 2394—1.

3. Subdivisions (1), (2) and (3) of subsection 1 of section 2394—1 of the statutes shall not apply to farm labor.

Section 2394—2. No contract, rule, or regulation, shall exempt the employer from any of the provisions of section 2394—1.

Section 2394—3. Liability for the compensation hereinafter provided for, in lieu of any other liability whatsoever, shall exist against an employer for any personal injury accidentally sustained by his employe, and for his death, in those cases where the following conditions of compensation concur:

(1) Where, at the time of the accident, both the employer and employe are subject to the provisions of sections 2394—3 to 2394—31, inclusive.

(2) Where, at the time of the accident, the employe is performing service growing out of and incidental to his employment.

Every employe going to and from his employment in the ordinary and usual way, while on the premises of his employer, shall be deemed to be performing service growing out of and incidental to his employment.

(3) Where the injury is proximately caused by accident, and is not intentionally self-inflicted.

And where such conditions of compensation exist for any personal injury or death, the right to the recovery of such compensation pursuant to the provisions of sections 2394—3 to 2394—31, inclusive, and acts amendatory thereof, shall be the exclusive remedy against the employer for such injury or death; in all other cases, the liability of the employer shall be the same as if this and the succeeding sections of sections 2394—3 to 2394—31, inclusive, had not been passed, but shall be subject to the provisions of sections 2394—1 and 2394—2.

Section 2394—4. The following shall constitute employers subject to the provisions of sections 2394—3 to 2394—31, inclusive, within the meaning of section 2394—3:

(1) The state, and each county, city, town, village, and school district therein.

(2) Every person, firm, and private corporation (including any public service corporation), who has any person in service under any contract of hire, express or implied, oral or written, and who, at or prior to the time of the accident to the employe for which compensation under sections 2394—3 to 2394—31, inclusive, may be claimed, shall, in the manner provided in section 2394—5, have elected to become subject to the provisions of sections 2394—3 to 2394—31, inclusive, and who shall not, prior to such accident, have effected a withdrawal of such election, in the manner provided in subsection 1 of section 2394—5.

Section 2394—5. 1. Such election on the part of the employer shall be made by filing with the industrial commission,

a written statement to the effect that he accepts the provisions of sections 2394—3 to 2394—31, inclusive, the filing of which statement shall operate, within the meaning of section 2394—4, to subject such employer to the provisions of sections 2394—3 to 2394—31, inclusive, for the term of one year from the date of filing such statement and until the first day of July following, and thereafter, without further act on his part, for successive terms of one year each, beginning July first of each year, unless such employer shall, at least thirty days prior to the first day of July of any year, file in the office of said commission a notice in writing to the effect that he desires to withdraw his election to be subject to the provisions of sections 2394—3 to 2394—31, inclusive.

2. \* \* \* *If any employer shall at any time after August 31, 1917, have three or more employes in a common employment he shall be deemed to have elected to accept the provisions of sections 2394—3 to 2394—31, inclusive, unless prior to that date such employer shall have filed with the industrial commission a notice in writing to the effect that he elects not to accept the provisions hereof. Provided, that any employer commencing business subsequent to \* \* \* August 31, 1917, may make his election not to become subject to sections 2394—3 to 2394—31, inclusive, at any time prior to becoming an employer of \* \* \* three or more employes in a common employment. Such employer may withdraw from the provisions of sections 2394—3 to 2394—31, inclusive, \* \* \* in the manner provided in subsection 1 of section 2394—5. The provisions of this subsection shall not apply to farmers or to farm labor.*

Section 2394—6. An employer subject to the provisions of sections 2394—3 to 2394—31, inclusive, shall be liable for compensation to an employe of a contractor or subcontractor under him who is not subject to sections 2394—3 to 2394—31, inclusive, \* \* \* or who has not complied with the conditions of subsection 2 of section 2394—24 in any case where such employer would have been liable for compensation if such employe had been working directly for such employer. The contractor or subcontractor shall also be liable for such compensation, but the employe shall not recover compensation for the same injury from more than one party. The employer who shall become liable for and pay such compensation may recover the same from such contractor or subcontractor for whom the employe was working at the time of the accident. Section 2394—6 shall be in force as to all contracts made subsequent to August 31, 1913.

Section 2394—7. The term “employee” as used in sections 2394—1 to 2394—31, inclusive, shall be construed to mean:

(1) Every person in the service of the state, or of any county, city, town, village, or school district therein under any appointment, or contract of hire, express or implied, oral or written, except any official of the state, or of any county, city, town, village, or school district therein. *No officer of the state who is subject to the direction and control of any superior officer or officers of the state, and no officer of any county, city, town, village, or school district in the state, who is subject to the direction and control of a superior officer or officers of such county, city, town, village or school district, while engaged in the performance of duties for which no remuneration is received from any other source than the state, or from such county, city, town, village, or school district, shall for the purposes of sections 2394—3 to 2394—31, inclusive, be deemed an official.* The state and any county or municipality may require a bond from a contractor to protect the state, county or municipality against compensation to employes of such contractor or employes of a subcontractor under him.

(2) Policemen and firemen shall be deemed employes within the meaning of subdivision (1) of section 2394—7; provided, that any policeman or fireman claiming compensation under sections 2394—3 to 2394—31, inclusive, shall have deducted from such compensation any sum which such policeman or fireman may receive from any pension or other benefit fund to which the municipality may contribute.

(3) Nothing herein contained shall be construed to prevent municipalities from paying policemen, firemen and other employes full salaries during disability, nor to interfere in any manner with any pension funds now or hereafter established, nor to prevent payment to policemen or firemen therefrom.

\* \* \* (4) Every person in the service of another under any contract of hire, express or implied, oral or written, including aliens, *all helpers and assistants of employes, whether paid by the employers or employe, if employed with the knowledge, actual or constructive, of the employer,* and also including minors \* \* \* *of permit age or over* (who, for the purposes of section 2394—8, shall be considered the same and shall have the same power of contracting as adult employes), but not including any person whose employment \* \* \* is not in the usual course of the trade, business, profession, or occupation of his employer.

Section 2394—8. Any employe, *except policemen and firemen*, as defined in subdivision (1) of section 2394—7 shall be subject to the provisions of sections 2394—3 to 2394—31, inclusive. *Policemen and firemen* and any employe as defined in subdivision \* \* \* (4) of section 2394—7 shall be deemed to have accepted and shall, within the meaning of section 2394—3, be subject to the provisions of sections 2394—3 to 2394—31, inclusive, if, at the time of the accident upon which liability is claimed:

(1) The employer charged with such liability is subject to the provisions of sections 2394—3 to 2394—31, inclusive, whether the employe has actual notice thereof or not; and

(2) Such employe shall not, \* \* \* have given to his employer notice in writing that he elects not to be subject to the provisions of sections 2394—3 to 2394—31, inclusive; \* \* \* *The employer shall immediately file with the industrial commission a copy of any such notice received.*

(3) *Any employe who has heretofore given or may hereafter give notice to his employer that he elects not to be subject to the provisions of sections 2394—3 to 2394—31, inclusive, may elect to become subject to the provisions of sections 2394—3 to 2394—31, inclusive, by giving to his employer notice in writing. The employer shall immediately file with the industrial commission a copy of any such notice received.*

\* \* \* (4) The provisions of sections 2394—3 to 2394—31, inclusive, shall not apply to employes operating, running or riding upon, or switching freight or other trains, engines or cars for a railroad company operating a steam railroad as a common carrier, unless both employer and employe shall specifically, in writing, have voluntarily accepted the provisions of said sections, and have filed notice thereof with the industrial commission, and shall not apply to employes of such common carriers injured or killed while the common carrier and the employe are engaged in interstate commerce.

Section 2394—9. Where liability for compensation under sections 2394—3 to 2394—31, inclusive, exists, the same shall be as provided in the following schedule:

(1) Such medical, surgical and hospital treatment, medicines, medical and surgical supplies, crutches, and apparatus, as may be reasonably required \* \* \* *for ninety days immediately following the accident, to cure and relieve from the effects of the injury, and for such additional period of time as in the judgment of the commission will tend to lessen the period of*

*compensation disability, and, in addition thereto, such artificial members as may be reasonably necessary at the end of the healing period, the same to be provided by the employer; and in case of his neglect or refusal seasonably to do so, the employer to be liable for the reasonable expense incurred by or on behalf of the employe in providing the same. Where the employer has knowledge of the injury and the necessity for treatment, his failure to tender the same shall constitute such neglect or refusal. Artificial members furnished at the end of the healing period need not be duplicated.*

(2) If the accident causes disability, an indemnity which shall be payable as wages on the eighth day after the injured employe leaves work as the result of the injury, and weekly thereafter, which weekly indemnity shall be as follows:

(a) If the accident causes total disability, sixty-five per cent of the average weekly earnings during the period of such total disability; \* \* \*

(b) If the accident causes partial disability, sixty-five per cent of the weekly loss in wages during the period of such partial disability.

(c) If the disability caused by the accident is at times total and at times partial, the weekly indemnity during the periods of each such total or partial disability shall be in accordance with said subdivisions (a) and (b), respectively.

(d) Said subdivisions (a), (b) and (c) shall be subject to the following limitations:

In case of temporary or partial disability aggregate indemnity for injury to \* \* \* an employe caused by a single accident shall not exceed four times the average annual earnings of such employe, *except a larger recovery results under the provisions of subsection 5 of this section.* \* \* \* In case of permanent total disability aggregate indemnity for injury to \* \* \* an employe caused by a single accident shall \* \* \* be weekly indemnity for the period that he may live, not to exceed, however, these named limitations, to wit:

*Fifteen years for all persons under thirty-two years of age;*

*For each successive yearly age group, beginning with thirty-two years, the maximum limitation shall be reduced by three months, until a minimum limit of nine years shall be reached.*

*No lump sum settlement shall be allowed in any case of permanent total disability upon an estimated life expectancy, except upon consent of all parties, after hearing and finding by the commission that the interests of the injured employe will be conserved thereby.*

Total blindness of both eyes, or the loss of both arms at or near the shoulder, or of both legs at or near the hip, or of one arm at the shoulder and one leg at the hip, shall constitute permanent total disability. This enumeration shall not be exclusive but in other cases the commission shall find the facts.

The aggregate disability period shall not, in any event, extend beyond fifteen years from the date of the accident.

The weekly indemnity due on the eighth day after the employe leaves work as the result of the injury may be withheld until the twenty-ninth day after he so leaves work; if recovery from the disability shall then have occurred, such first weekly indemnity shall not be recoverable; if the disability still continues, it shall be added to the weekly indemnity due on said twenty-ninth day and be paid therewith.

If the period of disability does not last more than one week from the day the employe leaves work as a result of the injury, no indemnity whatever shall be recoverable.

(3) Where death proximately results from the injury and the deceased leaves a person or persons wholly dependent upon him for support, the death benefit shall be as follows:

(a) In case the injured employe was permanently totally disabled, a sum equal to four times his average annual earnings, but which, when added to the disability indemnity paid and due at the time of death, shall not exceed six times his average annual earnings.

(b) In case the injured employe was not permanently totally disabled, such sum which, when added to the disability indemnity paid and due at the time of his death, shall equal four times his average annual earnings.

(4) If death occurs to an injured employe other than as a proximate result of the accident, before disability indemnity ceases, death benefit shall be as follows:

(a) Where the accident proximately causes permanent total disability, it shall be the same as if the accident had caused death.

(b) Where the accident proximately causes permanent partial disability, liability shall exist for such benefit as shall fairly represent the proportionate extent of the impairment of earning capacity in the employment in which the deceased was working at the time of the accident or other suitable employment, caused by such disability.

(c) In case the deceased employe leaves no one wholly dependent upon him for support, but one or more persons par-

tially dependent therefor, the death benefit shall not exceed four times the amount devoted by deceased, during the year immediately preceding his death, to the support of such dependents and shall be apportioned according to the percentage that the amount devoted by the deceased to the support of such person or persons, for the year immediately prior to the accident, bears to the average annual earnings of the deceased. Where, by reason of minority, sickness, or other causes during such year, the foregoing basis is unfair or inadequate, the death benefit shall be such sum as the commission may determine to be fair and just, considering the death benefits allowed in other cases where such untoward causes do not exist.

(d) \* \* \* *In all cases* the death benefit shall \* \* \* include reasonable expense of \* \* \* burial, not exceeding one hundred dollars.

(e) Death benefit, *other than burial expenses*, shall be paid in weekly instalments corresponding in amount to sixty-five per cent of the weekly earnings of the employe, until otherwise ordered by the commission.

(5) (a) In cases included by the following schedule, the compensation to be paid for *healing period and permanent disability, computed from the date of amputation or enucleation, as the case may be*, subject to the provisions of this act for maximum and minimum payments, shall be sixty-five per cent of the average weekly earnings of the employe for the periods named in the following schedule, to wit:

#### SCHEDULE.

(1) The loss of one arm at or near the shoulder, \* \* \* ; *three hundred twenty weeks*;

(2) The loss of an arm at the elbow, \* \* \* ; *two hundred eighty weeks*;

(3) The loss of a forearm at the lower half thereof, \* \* \* ; *two hundred forty weeks*;

(4) The loss of a hand \* \* \* ; *two hundred forty weeks*;

(5) The loss of a palm where the thumb remains, \* \* \* ; *one hundred forty weeks*;

(6) The loss of a thumb and the metacarpal bone thereof, \* \* \* ; *eighty-six weeks*;

(7) The loss of a thumb at the proximal joint, \* \* \* ; *seventy weeks*;

(8) The loss of a thumb at the second or distal joint, \* \* \* ; *thirty weeks*;



- (9) The loss of an index finger and the metacarpal bone thereof, \* \* \* ; *forty five weeks*;
- (10) The loss of an index finger at the proximal joint, \* \* \* ; *thirty-two weeks*;
- (11) The loss of an index finger at the second joint, \* \* \* ; *twenty weeks*;
- (12) The loss of an index finger at the distal joint, \* \* \* ; *twelve weeks*;
- (13) The loss of a \* \* \* middle finger and the metacarpal bone thereof, \* \* \* ; *thirty weeks*;
- (14) The loss of a middle finger at the proximal joint, \* \* \* ; *twenty weeks*;
- (15) The loss of a middle finger at the second joint, \* \* \* ; *twelve weeks*;
- (16) The loss of a middle finger at the distal joint, \* \* \* ; *eight weeks*;
- (17) The loss of a \* \* \* ring finger and the metacarpal bone thereof, \* \* \* ; *twenty-two weeks*;
- (18) The loss of a ring finger at the proximal joint, \* \* \* ; *twelve weeks*;
- (19) The loss of a ring finger at the second joint, \* \* \* ; *eight weeks*;
- (20) The loss of a ring finger at the distal joint, \* \* \* ; *six weeks*;
- (21) The loss of a little finger and the metacarpal bone thereof, \* \* \* ; *twenty-four weeks*;
- (22) The loss of a little finger at the proximal joint, \* \* \* ; *fourteen weeks*;
- (23) The loss of a little finger at the second joint, \* \* \* ; *ten weeks*;
- (24) The loss of a little finger at the distal joint, \* \* \* ; *six weeks*;
- (25) The loss of all the fingers of one hand where the thumb and palm remain, \* \* \* ; *ninety weeks*;
- (26) The loss of a leg at the hip joint, or so near thereto as to preclude the use of an artificial limb, \* \* \* ; *three hundred weeks*;
- (27) The loss of a leg at or above the knee, where stump remains sufficient to permit the use of an artificial limb, \* \* \* ; *two hundred twenty weeks*;
- (28) The loss of a foot at the ankle, \* \* \* ; *one hundred eighty weeks*;
- (29) The loss of a great toe with the metatarsal bone thereof, \* \* \* ; *sixty weeks*;

(30) The loss of a great toe at the proximal joint, \* \* \* ;  
*twenty-five weeks;*

(31) The loss of a great toe at the second joint, \* \* \* ;  
*fifteen weeks;*

(32) *The loss of the second toe with the metatarsal bone thereof, twenty-five weeks;*

(33) *The loss of the second toe at the proximal joint, ten weeks;*

(34) *The loss of the second toe at the distal joint, five weeks;*

(\* \* \*) (35) The loss of \* \* \* *the third, fourth or little toe with the metatarsal bone thereof, \* \* \* ; twenty weeks;*

(\* \* \*) (36) The loss of \* \* \* *the third, fourth or little toe at the proximal joint, \* \* \* ; eight weeks;*

(\* \* \*) (37) The loss of \* \* \* *the third, fourth or little toe at the second or distal joint, \* \* \* ; five weeks;*

(\* \* \*) (38) The loss of all the toes of one foot, \* \* \* ; *seventy weeks;*

(\* \* \*) (39) The loss of an eye by enucleation, one hundred sixty weeks;

(\* \* \*) (40) The loss of the second eye by enucleation, three hundred twenty weeks;

(\* \* \*) (41) Total blindness of one eye, one hundred forty weeks;

(\* \* \*) (42) Total blindness of the second eye, two hundred eighty weeks;

(\* \* \*) (43) Total deafness of both ears, one hundred sixty weeks;

(\* \* \*) (44) Total deafness of one ear, forty weeks;

(\* \* \*) (45) Total deafness of the second ear, one hundred twenty weeks;

(46) *For an amputation of a finger tip, thumb tip or toe tip, involving a bone amputation, compensation to be paid as if amputation was made at the distal joint; all other finger tip, thumb tip and toe tip amputations to be compensated as provided in paragraph (e) of subdivision (5) of section 2394—9.*

(b) When by reason of infection or other cause not due to the neglect or misconduct of the injured employe, he is actually disabled longer than the time specified in the foregoing schedule from earning a wage, compensation shall be paid such employe for such loss of wage within the limits otherwise provided.

(c) For the purposes of this schedule permanent and complete paralysis of any member shall be deemed equivalent to the loss thereof.

(d) Whenever an amputation is made between any two joints mentioned in this schedule (except amputations between the knee and hip joint) the resultant loss shall be estimated as if the amputation had been made at the joint nearest thereto.

(e) For all other injuries to the members of the body or its faculties which are specified in the foregoing schedule resulting in permanent disability, though the member be not actually severed or the faculty totally lost, compensation shall bear such relation to that named in the schedule as the disabilities bear to those produced by the injuries named in the schedule. Indemnity in such cases shall be determined by allowing weekly indemnity during the healing period resulting from the injury and the percentage of permanent disability resulting thereafter as found by the commission, *based upon eighty per cent of the specific schedule allowance.*

*(em) In case an accident causes more than one permanent injury specified in this subsection to the hands or feet, the disability allowance for each additional injury, in the order of the severity of such injuries from minimum to maximum, shall be increased as follows: For the first additional injury the allowance specified in this subsection plus ten per cent, for the second additional injury, and for each other additional injury, the allowance specified in this subsection plus twenty per cent. In no event shall the compensation for more than one permanent injury to members of a hand or foot, resulting from one accident, exceed the allowance for the amputation of the entire hand or foot, as the case may be.*

(f) If an employe is \* \* \* so permanently disfigured about the face, \* \* \* head, neck, hand or arm as to occasion loss of wage, the commission may allow such sum for compensation on account thereof, as it may deem just, not exceeding seven hundred fifty dollars.

(g) In case of permanent injury to an employe who is over fifty-five years of age, the compensation herein shall be reduced by five per cent; in case he is over sixty years of age, by ten per cent; in case he is over sixty-five years of age, by fifteen per cent.

(h) Where injury is caused by the failure of the employer to comply with any statute of the state or any lawful order of the industrial commission, compensation and death benefits as provided in sections 2394—3 to 2394—31, inclusive, shall be increased fifteen per cent.

(i) Where injury is caused by the wilful failure of the

employe to use safety devices where provided by the employer,  
or

(j) Where injury results from the employe's wilful failure to obey any reasonable rule adopted by the employer for the safety of the employe, or

(k) Where injury results from the intoxication of the employe, the compensation provided herein shall be reduced fifteen per cent.

(l) Any time after six months have elapsed from the date of the injury, the commission may order payment in gross or in such manner as it may determine to the best interest of the parties. When payment in gross is ordered, the commission shall fix the gross amount to be paid based on the present worth of partial payments, considering interest at three per cent per annum.

(m) *Aggregate allowances for injuries shall in no case exceed six times the average annual earnings, except in cases of permanent total disability.*

(6) *Compensation and death benefits, as provided in sections 2394—3 to 2394—31, inclusive, shall, in the following cases, be treble the amount otherwise recoverable:*

(a) *If the injured employe be a minor of permit age and at the time of the accident is employed, required, suffered or permitted to work without a written permit issued pursuant to section 1728a.*

(b) *If the injured employe be a minor of permit age, or over, and at the time of the accident is employed, required, suffered or permitted to work at prohibited employment.*

*A permit unlawfully issued by an officer specified in section 1728a, or unlawfully altered after issuance, without fraud on the part of the employer, shall be deemed a permit within the provisions of this subsection.*

(7) *In case of liability for the increased compensation or increased death benefits provided for by subdivision (h) of subsection (5) of this section, or included in subsection (6) of this section, the liability of the employer shall be primary and the liability of the insurance carrier shall be secondary. In case proceedings are had before the commission for the recovery of such increased compensation or increased death benefits the commission shall set forth in its award the amount and order of liability as herein provided. Execution shall not be issued against the insurance carrier to satisfy any judgment covering such increased compensation or increased death benefits until*

*execution has first been issued against the employer and has been returned unsatisfied as to any part thereof. Any provision in any insurance policy undertaking to guarantee primary liability or to avoid secondary liability for such increased compensation or increased death benefits shall be void.*

Section 2394—10. 1. The average weekly earnings referred to in section 2394—9 shall be \* \* \* *one-fiftieth* of the average annual earnings of the employe.

The average annual earnings for employes operating, running, riding upon, or switching passenger, freight or other trains, engines or cars for a railroad company operating a steam railroad as a common carrier, shall be taken at not less than five hundred dollars nor more than one thousand two hundred fifty dollars per annum; and for all other employes such average annual earnings shall be taken at not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars. Between said limits such average annual earnings shall be determined as follows:

(a) If the injured employe has worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he has earned in such employment during the days when so employed.

(b) If the injured employe has not so worked in such employment during substantially the whole of such immediately preceding year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employe of the same class working substantially the whole of such immediately preceding year in the same or a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) In cases where the foregoing methods of arriving at the average annual earnings of the injured employe cannot reasonably and fairly be applied, such average annual earnings shall be taken at such sum as, having regard to the previous earnings of the injured employe, and of other employes of the same or most similar class, working in the same or most similar employment, in the same or a neighboring locality, shall reasonably represent the average annual earning capacity of the injured employe at the time of the accident in the employment in which he was working at such time.

*(d) In determining average daily wage, no day during which an employe has worked less than eight hours shall be taken into consideration unless by agreement or custom a lesser number of hours' work constitutes the full day's service for such day. Subject to the maximum limitation the average annual earnings shall in no case be taken at less than the actual annual earnings.*

*(e) If an employe is a minor and is permanently disabled, his weekly earnings shall be determined on the basis of the earnings that such minor, if not disabled, probably would earn after attaining the age of twenty-one years.*

\* \* \* *(f) The fact that an employe has suffered a previous disability, or received compensation therefor, shall not preclude compensation for a later injury, or for death, but in determining compensation for the later injury, or death, his average annual earnings shall be such sum as will reasonably represent his average annual earning capacity at the time of the later injury, in the employment in which he was working at such time, and shall be arrived at according to, and subject to the limitations of the previous provisions of this section.*

2. The weekly loss in wages referred to in section 2394—9 shall consist of such percentage of the average weekly earnings of the injured employe, computed according to the provisions of this section, as shall fairly represent the proportionate extent of the impairment of his earning capacity in the employment in which he was working at the time of the accident, and other suitable employments, the same to be fixed as of the time of the accident, but to be determined in view of the nature and extent of the injury.

3. The following shall be conclusively presumed to be solely and wholly dependent for support upon a deceased employe:

(a) A wife upon a husband with whom she is living at the time of his death.

(b) A husband upon a wife with whom he is living at the time of her death.

(c) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning), upon the parent with whom he or they are living at the time of the death of such parent, there being no surviving dependent parent. In case of divorce the charging of the full support and maintenance of a child upon one of the divorced parents shall be held to constitute a living with the parent so charged. In case there is more than one child thus dependent, the death benefit shall be divided between such dependents in

such proportion as may be determined by the commission after considering the ages of such dependents and other facts bearing on such dependency.

In all other cases questions of entire or partial dependency shall be determined in accordance with the fact, as the fact may be at the time of the accident to the employe; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partially dependent, if any, shall receive no part thereof; and if there is more than one person partially dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

4. No person shall be considered a dependent unless a member of the family of the deceased employe, or a divorced spouse who has not remarried, or one who bears to him the relation of husband or widow, or lineal descendent, or ancestor, or brother, or sister.

5. Questions as to who constitute dependents and the extent of their dependency shall be determined as of the date of the accident to the employe, and their right to any death benefit shall become fixed as of such time, irrespective of any subsequent change in conditions; and the death benefit shall be directly recoverable by and payable to the dependent or dependents entitled thereto or their legal guardians or trustees; provided that in case of the death of a dependent whose right to a death benefit has thus become fixed, so much of the same as is then unpaid shall be recoverable by and payable to his personal representatives in gross. No person shall be excluded as a dependent who is a nonresident alien.

6. No dependent of an injured employe shall be deemed, during the life of such employe, a party in interest to any proceeding by him for the enforcement or collection of any claim for compensation, nor as respects the compromise thereof by such employe.

Section 2394—11. No claim to recover compensation under sections 2394—3 to 2394—31, inclusive, shall be maintained unless, within thirty days after the occurrence of the accident which is claimed to have caused the injury or death, notice in writing, stating the name and address of the person injured, the time and place where the accident occurred, and the nature of the injury, and signed by the person injured or by some one on his behalf, or in case of his death, by a dependent or some one on his behalf, shall be served upon the employer, either by deliver-

ing to and leaving with him a copy of such notice, or by mailing to him by registered mail a copy thereof in a sealed and post-paid envelope addressed to him at his last known place of business or residence. Such mailing shall constitute completed service. Provided, however, that any payment of compensation under sections 2394—3 to 2394—31, inclusive, in whole or in part, made by the employer before the expiration of said thirty days, shall be equivalent to the notice herein required; and provided, further, that the failure to give any such notice, or any defect or inaccuracy therein, shall not be a bar to recovery under sections 2394—3 to 2394—31, inclusive, if it is found as a fact in the proceedings for collection of the claim that there was no intention to mislead the employer, and that he was not in fact misled thereby; and provided, further, that if no such notice is given and no payment of compensation made, within two years from the date of the accident, the right to compensation therefor shall be wholly barred.

Section 2394—12. Wherever in case of injury the right to compensation under sections 2394—3 to 2394—31, inclusive, would exist in favor of any employe, he shall, upon the written request of his employer, submit from time to time to examination by a regular practicing physician, who shall be provided and paid for by the employer, and shall likewise submit to examination from time to time by any regular physician selected by said industrial commission, or a member or examiner thereof. The employe shall be entitled to have a physician, provided and paid for by himself, present at any such examination. So long as the employe, after such written request of the employer, shall refuse to submit to such examination, or shall in any way obstruct the same, his right to begin or maintain any proceeding for the collection of compensation shall be suspended; and if he shall refuse to submit to such examination after direction by the commission, or any member or examiner thereof, or shall in any way obstruct the same, his right to the weekly indemnity which shall accrue and become payable during the period of such refusal or obstruction, shall be barred. Any physician who shall make or be present at any such examination may be required to testify as to the results thereof. Any physician having attended an employe in a professional capacity may be required to testify before the commission when it shall so direct.

Section 2394—13. Sections 2394—3 to 2394—31, inclusive, shall be administered by the industrial commission. A majority



of the commission shall constitute a quorum for the exercise of any of the powers or authority conferred by sections 2394—3 to 2394—31, inclusive, and an order or award made by a majority shall be valid. In case of a vacancy, the remaining two members of the commission shall exercise all the powers and authority of the commission until such vacancy is filled.

Section 2394—14. 1. Subject to the provisions of sections 2394—3 to 2394—31, inclusive, the commission may adopt its own rules of procedure and may change the same from time to time in its discretion. The commission, when it shall deem it necessary to expedite its business, may, from time to time, employ one or more expert examiners for such length of time as may be required, such examiners to be exempt from the operation of sections 990—1 to 990—32, inclusive, of the statutes. It may employ such deputies, inspectors, clerks, stenographers and other employes as it may deem necessary. It shall provide itself with a seal for the authentication of its orders, awards and proceedings, upon which shall be inscribed the words "Industrial Commission—Wisconsin—Seal."

2. *The commission may provide by rule the terms and conditions under which transcripts of testimony and proceedings shall be furnished. Any fees received by the commission for such transcripts shall be paid into the state treasury and such funds are hereby appropriated to the commission to be used for reporter and stenographic services.*

Section 2394—15. 1. Any dispute or controversy concerning compensation under sections 2394—3 to 2394—31, inclusive, including any in which the state may be a party, shall be submitted to said industrial commission in the manner and with the effect provided in sections 2394—3 to 2394—31, inclusive. Every compromise of any claim for compensation under sections 2394—3 to 2394—31, inclusive, shall be subject to be reviewed by, and set aside, modified or confirmed by the commission upon application made within one year from the time of such compromise.

2. The industrial commission shall have jurisdiction to pass upon the reasonableness of medical and hospital bills in all cases of dispute where compensation is paid, in the same manner and to the same effect as it passes upon compensation.

3. *No employer subject to the provisions of sections 2394—3 to 2394—31, inclusive, shall solicit, receive or collect any money from his employes or make any deduction from their wages, either directly or indirectly, for the purpose of discharging any*

*liability under the provisions of said sections; nor shall any such employer sell to an employe, or solicit or require him to purchase medical or hospital tickets or contracts for medical, surgical, or hospital treatment required to be furnished by such employer under the provisions of said sections.*

*4. Any employer violating the provisions of subsection 3 of this section shall be subject to the penalties provided in subsection 3 of section 2394—24, and, in addition thereto, shall be liable to an injured employe for the reasonable value of the necessary services rendered to such employe pursuant to any arrangement made in violation of subsection 3 of this section without regard to said employe's actual disbursements for the same.*

Section 2394—16. Upon the filing with the commission by any party in interest of an application in writing stating the general nature of any claim as to which any dispute or controversy may have arisen, it shall mail a copy of such application to all other parties in interest and the insurance carrier shall be deemed a party in interest. The commission may bring in additional parties by service of a copy of the application. The commission shall fix a time for the hearing \* \* \* on such application which shall not be more than forty days after the filing of such application. The commission shall cause notice of such hearing, \* \* \* to be given to each party interested, by service of such notice on him personally or by mailing a copy thereof to him at his last known post-office address at least ten days before such hearing. Such hearing may be adjourned from time to time in the discretion of the commission, and hearings may be held at such places as the commission shall designate. Either party shall have the right to be present at any hearing, in person or by attorney, or any other agent, and to present such testimony as may be pertinent to the controversy before the commission; but the commission, may, with or without notice to either party, cause testimony to be taken, or an inspection of the premises where the injury occurred to be had, or the time books and pay roll of the employer to be examined by any member of the commission or any examiner appointed by it, and may from time to time direct any employe claiming compensation to be examined by a regular physician; the testimony so taken, and the results of any such inspection or examination, to be reported to the commission for its consideration upon final hearing. All ex parte testimony taken by the commission shall be reduced to writing and either party

shall have opportunity to rebut the same on final hearing. The commission, or any member thereof, or any examiner appointed thereby, shall have power and authority to issue subpoenas, to compel the attendance of witnesses or parties, and the production of books, papers, or records, and to administer oaths, *hold hearings and take testimony.*

Any person who shall wilfully fail or neglect to appear and testify or to produce books, papers and records as required by such subpoena duly served upon him, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, or imprisoned in the county jail not longer than thirty days for each such offense. Each day such person shall so refuse or neglect shall constitute a separate offense.

The circuit court of the county wherein such person resides, upon application of the commission or any member thereof or any such examiner, may issue an order compelling the attendance and testimony of witnesses and the production of books, papers and records before such commission or any member thereof or any such examiner.

Section 2394—17. After final hearing by said commission, it shall make and file (1) its findings upon all the facts involved in the controversy, and (2) its award, which shall state its determination as to the rights of the parties. Pending the \* \* \* *final* determination of any controversy before it, the commission shall have power \* \* \* *after any hearing, to make interlocutory findings, orders and awards which may be enforced in the same manner as final awards.* The commission shall have the power to include in its *final* award, as a penalty for noncompliance with any such *interlocutory* order or award, if it shall find that noncompliance was not in good faith, not exceeding twenty-five per cent of each amount which shall not have been paid as directed thereby.

The commission may on its own motion, modify or change its order, findings or award at any time within \* \* \* *twenty* days from the date thereof if it shall discover any mistake therein.

Section 2394—17m. *In case a deceased employe, for whose injury or death compensation is payable, leaves surviving him an alien dependent or dependents residing outside of the United States, the duly accredited consular officer of the country of which such dependents are citizens, or his designated representatives residing within the state, shall, except as otherwise*

*determined by the industrial commission, be the sole legal representative of such deceased employe and of such dependents in all matters pertaining to their claims for compensation. The receipt by such officer or agent of all compensation funds, and the distribution thereof, shall be made only upon order of the industrial commission, and payment to such officer or agent pursuant to any such order, any power of attorney to receive and receipt for the same to the contrary notwithstanding, shall be as full a discharge of the benefits or compensation payable under the provisions of sections 2394—3 to 2394—31, both inclusive, as if payments were made directly to the beneficiaries. Such consular officer or his representative shall furnish, if required by the industrial commission, a good and sufficient bond, to be approved by the commission, conditioned upon the proper application of all moneys received by him. Before such bond is discharged, such consular officer or representative shall file with the commission a verified account of the items of his receipts and disbursements of such compensation. Such consular officer or representative shall make interim reports to the industrial commission from time to time as it may require.*

Section 2394—18. Either party may present a certified copy of the award to the circuit court for any county, whereupon said court shall, without notice, render a judgment in accordance therewith; which judgment, until and unless set aside as hereinafter provided, shall have the same effect as though duly rendered in an action duly tried and determined by said court, and shall, with like effect, be entered and docketed.

Section 2394—18a. Whenever an award is made by the commission against any county, city, village or town, the person in whose favor it is made shall file a certified copy thereof with the county, city, village or town clerk, as the case may be. Within twenty days thereafter, unless an appeal is taken, such clerk shall draw an order on the county, city, village or town treasurer against which the award was made for the payment of the amount specified in the award. If upon appeal such award is affirmed in whole or in part the order for payment shall be drawn within ten days after a certified copy of such judgment is filed with the proper clerk. If more than one payment is provided for in the award or judgment, orders shall be drawn as the payments become due. The provisions of any statute relating to the filing of claims against, and the auditing, allowing and payment of claims by counties, cities, villages and towns shall not apply to the payment of an award or judgment under the provisions of this section.

*Section 2394—18m. If the sum awarded or ordered by the commission to be paid shall not be paid when due, such sum shall bear interest at the rate of six per cent per annum. Where the employer or his insurer is guilty of inexcusable delay in the making of compensation payments, the payments as to which such delay is found shall be increased by ten per cent.*

Section 2394—19. 1. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive; and the order or award, *either interlocutory or final*, whether judgment has been rendered thereon or not, shall be subject to review only in the manner and upon the grounds following: Within twenty days from the date of the order or award, any party aggrieved thereby may commence, in the circuit court for Dane county, an action against the commission for the review of such order or award, in which action the adverse party shall also be made defendant. In such action a complaint, which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary of the commission, or any member of the commission, shall be deemed completed service. The commission shall serve its answer within twenty days after the service of the complaint, and, within the like time, such adverse party shall, if he so desires, serve his answer to said complaint. With its answer, the commission shall make return to said court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and of its order, findings and award. Such return of the commission when filed in the office of the clerk of the circuit court shall, with the papers mentioned in section 2898 of the statutes, constitute a judgment roll in such action; and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such court in such action. Said action may thereupon be brought on for hearing before said court upon such record by either party on ten days' notice to the other; subject, however, to the provisions of law for a change of the place of trial or the calling in of another judge. Upon such hearing, the court may confirm or set aside such order or award; and any judgment which may theretofore have been rendered thereon; but the same shall be set aside only upon the following grounds:

(1) That the commission acted without or in excess of its powers.

(2) That the order or award was procured by fraud.

(3) That the findings of fact by the commission do not support the order or award.

2. Any action commenced in court under section 2394—19 to set aside or modify any order or award of the commission must be brought to trial within thirty days after issue shall be joined, unless continued on order of the court for good cause shown. No continuance shall be for longer than thirty days at one time, and further continuance may be had only upon order of the court for cause.

3. Upon the trial of any such action the court shall disregard any irregularity or error of the commission unless it be made to affirmatively appear that the plaintiff was damaged thereby.

4. The record in any case shall be transmitted to the commission within twenty days after the order or judgment of the court, unless appeal shall be taken from such order or judgment.

Section 2394—20. Upon the setting aside of any order or award the court may recommit the controversy and remand the record in the case to the commission, for further hearing or proceedings; or it may enter the proper judgment upon the findings, as the nature of the case shall demand. An abstract of the judgment entered by the trial court upon the review of any order or award shall be made by the clerk thereof upon the docket entry of any judgment which may theretofore have been rendered upon such order or award, and transcripts of such abstract may thereupon be obtained for like entry upon the dockets of the courts of other counties.

Section 2394—21. 1. Said commission, or any party aggrieved by a judgment entered upon the review of any order or award, may appeal therefrom within the time and in the manner provided for an appeal from the orders of the circuit court, except that it shall not be necessary for said commission or any party to said action to execute, serve or file the undertaking required by section 3052 of the statutes in order to perfect such appeal; but all such appeals shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as state causes on such calendar.

2. *After the commencement of an action to review any award of the commission the parties may have the record remanded by the court for such time and under such condition as they may provide, for the purpose of having the commission act upon the question of approving or disapproving any settlement or compromise that the parties may desire to have so approved. If approved the action shall be at an end and judgment may be entered upon the approval as upon an award. If not approved the*

*record shall forthwith be returned to the circuit court and the action shall proceed as if no remand had been made.*

Section 2394—22. 1. No fees shall be charged by the clerk of any court for the performance of any official service required by sections 2394—3 to 2394—31, inclusive, except for the docketing of judgments and for certified copies of transcripts thereof. In proceedings to review an order or award, costs as between the parties shall be allowed or not in the discretion of the court, but no costs shall be taxed against said commission. In any action for the review of an order or award, and upon any appeal therein to the supreme court, it shall be the duty of the attorney-general, personally, or by an assistant, to appear on behalf of the commission, whether any other party defendant shall have appeared or be represented in the action or not. \* \* \*

(2) *Unless previously authorized by the commission, no contingent fee shall be charged or received for the enforcement or collection of any claim for compensation, nor shall any contract therefor be enforceable, where such fee, inclusive of all taxable attorney's fees paid or agreed to be paid for such enforcement or collection, exceeds ten per cent of the amount at which such claim shall be compromised, or of the amount awarded, adjudged or collected, or where such fee computed upon such percentage basis shall exceed in gross the sum of one hundred dollars. The limitation as to contingent fees shall apply to the combined charges of attorneys, solicitors, representatives and adjusters who knowingly combine their efforts toward the enforcement or collection of any compensation claim.*

(3) *All awards of compensation in favor of any claimant, which equals or exceeds one hundred dollars, shall be made payable to such claimant in person; provided, however, that in any award the commission shall upon application of any interested party and subject to the provisions of subsection 2 of this section fix the amount of the fees of his attorney or representative and provide in the award for payment of such fee direct to the person or persons entitled thereto. Payment according to the directions of the award shall protect the employer and his insurer from any claim of attorney's lien.*

(4) *The charging, taking or receiving of any fee in violation of subsections 2 and 3 of this section shall be deemed unlawful practice, and the attorney or other person guilty thereof shall forfeit double the entire amount retained by him, the same to be collected by the state in an action in debt, upon complaint of the commission. Out of the sum recovered the court shall direct payment to the injured party of the amount of the overcharge.*

Section 2394—23. No claim for compensation under sections 2394—3 to 2394—31, inclusive, shall be assignable before payment, but this provision shall not affect the survival thereof; nor shall any claim for compensation, or compensation awarded, adjudged or paid, be subject to be taken for the debts of the party entitled thereto.

Section 2394—24. 1. The whole claim for compensation for the injury or death of any employe or any award or judgment thereon, shall be entitled to \* \* \* *the same preference as is given by any law of this state to claims for labor*, but this section shall not impair the lien of any judgment entered upon any award.

\* \* \*

2. An employer liable under this act to pay compensation shall insure payment of such compensation in some company authorized to insure such liability in this state unless such employer shall be exempted from such insurance by the industrial commission. An employer desiring to be exempt from insuring his liability for compensation shall make application to the industrial commission showing his financial ability to pay such compensation, whereupon the commission by written order may make such exemption. The commission may from time to time require further statement of financial ability of such employer to pay compensation and may upon ten days' notice in writing, revoke its order granting such exemption, in which case such employer shall immediately insure his liability.

3. An employer who shall fail to comply with the provisions of subsection 2 of section 2394—24 shall be guilty of a misdemeanor and upon conviction thereof shall forfeit twenty-five dollars for each offense. Each day's failure shall be a separate offense. Upon complaint of the commission, such forfeitures may be collected by the state in an action in debt.

Section 2394—25. 1. The making of a lawful claim against an employer for compensation under sections 2394—3 to 2394—31, inclusive, for the injury or death of his employe shall operate as an assignment of any cause of action in tort which the employe or his personal representative may have against any other party for such injury or death; and such employer may enforce in his own name the liability of such other party.

2. The making of a claim by an employe against a third party for damages by reason of an accident covered by sections 2394—3 to 2394—31, inclusive, shall operate as a waiver of any claim for compensation against the employer.

3. *Nothing in sections 2394—3 to 2394—31, inclusive, shall*



*prevent an employe from taking the compensation he may be entitled to under said sections and also maintaining a civil action against any physician or surgeon for malpractice. The measure of damages, if any be recovered in such action, shall be the amount of damages found by the jury less the compensation paid to the employe under said sections, due to such malpractice.*

Section 2394—26. Nothing in sections 2394—3 to 2394—31, inclusive, shall affect the organization of any mutual or other insurance company, or any existing contract for insurance of employers' liability; nor the right of the employer to insure in mutual or other companies, in whole or in part, against such liability, or against the liability for the compensation provided for by sections 2394—3 to 2394—31, inclusive, or to provide by mutual or other insurance, or by arrangement with his employes, or otherwise, for the payment to such employes, their families, dependents or representatives, of sick, accident or death benefits in addition to the compensation provided for by sections 2394—3 to 2394—31, inclusive. But liability for compensation under sections 2394—3 to 2394—31, inclusive, shall not be reduced or affected by any insurance, contribution or other benefit whatsoever, due to or received by the person entitled to such compensation, and the person so entitled shall, irrespective of any insurance or other contract, have the right to recover the same directly from the employer; and in addition thereto, the right to enforce in his own name, in the manner provided in sections 2394—3 to 2394—31, inclusive, the liability of any insurance company which may, in whole or in part, have insured the liability for such compensation, *and the appearance, whether general or special, of any such insurance carrier by agent or attorney shall be a waiver of the service of copy of application and of notice of hearing required by section 2394—16*; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance company, shall, to the extent thereof, be a bar to recovery against the other of the amount so paid, and provided, further, that as between the employer and the insurance company, payment by either directly to the employe, or to the person entitled to compensation, shall be subject to the conditions of the insurance contract between them.

2. *The failure of the assured to do or refrain from doing any act required by the policy shall not be available to the insurance carrier as a defense against the claim of the injured employe or his dependents.*

Section 2394—27. 1. Every contract for the insurance of the

compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of sections 2394—3 to 2394—31, inclusive, and provisions thereof inconsistent with sections 2394—3 to 2394—31, inclusive, shall be void. No company shall enter into any such contract of insurance unless such company shall have been approved by the commissioner of insurance, as provided by law. For the purposes of sections 2394—3 to 2394—31, inclusive, each employe shall constitute a separate risk within the meaning of section 1898d of the statutes; provided, that at least five employers shall join in the organization of a mutual company under subdivision (5) of section 1897 and no such company organized by employers shall be licensed or authorized to effect such insurance unless such company shall have in force or put in force simultaneously, insurance on at least one thousand five hundred separate risks.

2. The industrial commission, by itself or its employes, may examine from time to time the books and records of any liability insurance company insuring liability or compensation for an employer in this state. Any such company that shall refuse or fail to allow the industrial commission to examine its books and records or to file the report required by subsection 3 of section 2394—27, shall have its license to do business in the state revoked.

3. Every company transacting the business of compensation insurance, in addition to all other reports required by law to be made, shall, on or before the first day of March in each year, on blanks furnished for such purpose, make and file with the industrial commission an annual statement of its business and accident experience covering the year ending on the preceding thirty-first day of December.

4. Every insurance company, including any interinsurer or other insurer authorized to do business within this state and insuring the liability of employers for compensation as herein provided, shall file with the industrial commission its classifications of risks and rates of premium relating thereto, and any changes in or additions to such classifications or rates of premium. No such company shall issue in this state any policy insuring against such liability for compensation except upon the classifications and rates of premiums so filed with the industrial commission. No such company shall discriminate between insured having risks in the same class and degree of hazard by the granting of any rebate or deduction in such rate of premium, or by any change of classification for the purpose of granting such deduction, or in any other manner. Any such company or agent

violating any provision of this section shall be subject to the penalties provided by section 1955o. Upon the filing of any complaint with the commissioner of insurance alleging any violation of this section, proceedings shall be had thereon as provided for violations of section 1955o.

Section 2394—28. \* \* \*

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\* \* \* *In any case in which compensation payments have extended or will extend over a period of six months or more from the date of the injury, (or at any time in death benefit cases) any party in interest may, in the discretion of the industrial commission, be discharged from, or compelled to guarantee, future compensation payments as follows:*

(1) *By depositing the present value of the total unpaid compensation upon a three per cent interest discount basis with such bank or trust company as may be designated by the commission; or*

(2) *By purchasing an annuity within the limitations provided by law, in such insurance company granting annuities and licensed in this state, as may be designated by the commission; or*

(3) *By payment in gross upon a three per cent interest discount basis to be approved by the commission; and*

(4) *In cases where the time for making payments or the amounts thereof cannot be definitely determined, by furnishing a bond, or other security, satisfactory to the industrial commission for the payment of such compensation as may be due or become due. The acceptance of such bond, or other security, and the form and sufficiency thereof, shall be subject to the approval of the industrial commission. If the employer or insurer is unable or fails to immediately procure such bond, then, in lieu thereof, deposit shall be made with such bank or trust company, as may be designated by the commission, of the maximum amount that may reasonably become payable in such cases. Such maximums are to be determined by the commission at amounts consistent with the extent of the injuries and the provisions of the law. Such bonds and deposits are to be reduced only to satisfy such claims and withdrawn only after the claims which they are to guarantee are fully satisfied or liquidated under the provisions of subsections (1), (2) or (3) of this section; and*

(5) *Any insured employer may, within the discretion of the industrial commission, compel the insurer to discharge, or to guarantee payment of its liabilities in any such case under the provisions of this section and thereby release himself from compensation liability therein, but if for any reason a bond furnished*

*or deposit made under subsection (4) of this section does not fully protect, the compensation insurer or uninsured employer, as the case may be, shall still be liable to the beneficiary thereof.*

Section 2394—29. The commission shall cause to be printed and furnished free of charge to any employer or employe such blank forms as it shall deem requisite to facilitate or promote the efficient administration of sections 2394—3 to 2394—31, inclusive; it shall provide such proper record books or records as it shall deem required for the proper and efficient administration of sections 2394—3 to 2394—31, inclusive; all such records to be kept in the office of the commission. The commission shall cause notice of employers subject to this act to be given to employes, in such manner as the commission shall deem most effective; and the commission shall likewise cause notice to be given of the filing of any withdrawal of such election; but notwithstanding the failure to give, or the insufficiency of, any such notice, knowledge of the fact shall conclusively be imputed to all employes.

Section 2394—31. The legislature intends the contingency in subdivision (3) of section 2394—1 to be a separable part thereof, and the subdivision likewise separable from the rest of sections 2394—1 to 2394—31, inclusive, and that part of said section 2394—1 that follows subdivision (3) likewise separable from the rest of sections 2394—1 to 2394—31, inclusive; so that any part of said subdivision, or the whole, or that part which follows said subdivision (3), may fail without affecting any other part of sections 2394—1 to 2394—31, inclusive.

SECTION 2. This act shall take effect on September 1, 1917.

Approved July 10, 1917.

No. 615, S.]

[Published July 13, 1917.

## CHAPTER 625

AN ACT to repeal conditionally sections 1, 2, 3, 4, 5, and 6 of chapter 51 of the laws of 1878, and to create two new sections to be numbered 1 and 2 of said chapter 51 of the laws of 1878, providing for the improvement of the Blue Mound or Spring Street Road, a county highway, in Milwaukee county.

*The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Sections 1, 2, 3, 4, 5, and 6 of chapter 51 of the laws of 1878 are repealed conditionally as provided in this act.

SECTION 2. Two new sections are added to chapter 51 of the laws of 1878 to be numbered and to read: (Laws of 1878, Ch. 51) Section 1. The Chicago, Milwaukee & St. Paul Railway Company is hereby required to rebuild, prior to January 1, 1918.