

No. 567, S.]

[Published August 1, 1919.]

CHAPTER 680.

AN ACT to renumber subsections (6) and (7) of section 2394—9 to be subsections (7) and (8) respectively; to create subdivision (e) of subsection (7) as so renumbered of section 2394—9 and to create paragraph (33a) of subdivision (a) of subsection (5) and a new subsection to be numbered subsection (6) of section 2394—9; to amend the second paragraph of subdivision (d) of subsection (2), subdivision (d) of subsection (4), subdivision (k) of subsection (5), paragraph (39) of subdivision (a) of subsection (5), of section 2394—9, section 2394—18a, subsection 2 of section 2394—24, subsections 1 and 2 of section 2394—25, and section 2394—29; to repeal paragraphs (40) and (42) of subdivision (a) of subsection (5) of section 2394—9; and to renumber paragraphs (33a) to paragraph (46), both inclusive, of subdivision (a) of subsection (5) of section 2394—9 to be paragraphs (34) to paragraph (45), respectively, both inclusive, of section 2394—9 of the statutes, relating to workmen's compensation and the industrial commission.

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

SECTION 1. Subsections (6) and (7) of section 2394—9 of the statutes are renumbered to be subsections (7) and (8) respectively of said section.

SECTION 2. A new subdivision is added to subsection (7) as renumbered, of section 2394—9, a new paragraph is added to subdivision (a) of subsection (5) of section 2394—9 and a new subsection is added to section 2394—9 of the statutes to read: (Section 2394—9) (7) (e) If treble the amount recoverable shall be less than the actual loss of wage sustained by the minor employe, then liability shall exist for such loss of wage.

(Section 2394—9) (5) (a) (33a) The loss of the second toe at the second joint, seven weeks;

(Section 2394—9) (6) In the following cases special indemnity shall be paid an employe only from the funds provided for in subdivisions (d), (e) and (f) of this subsection in addition to the allowance provided in subsection (5) of this section, after cessation of the payments therein prescribed;

(a) If an employe has previously incurred permanent partial disability through the loss or total impairment of a hand, arm, foot, leg or eye, and by a subsequent accident incurs permanent total disability through the loss or total impairment of

the other hand, or the other arm, or the other foot, or the other leg, or the other eye, or through the loss or total impairment of another member or organ, an amount sufficient to complete indemnity liability as for permanent total disability.

(b) If, by reason of the loss or permanent impairment of any member or organ specified in the foregoing subdivision by a subsequent accident, where loss or total impairment of another member or organ existed because of a prior accident, the employe shall sustain necessary wage loss in excess of that for which indemnity is provided in subsection (5) of this section, an amount sufficient to complete the payment of such indemnity as would have accrued if the injury to both members or organs had been caused by a single accident.

(c) Where permanent impairment of both eyes is caused by a single accident, such additional amount as shall be necessary to complete indemnity for such disability period as the nature of the injury bears to one causing permanent total disability.

(d) In each case of the loss or of the total impairment of a hand, arm, foot, leg or eye, the employer shall be required to pay the sum of one hundred and fifty dollars into the state treasury.

(e) The moneys paid into the state treasury pursuant to the foregoing subdivision, with all accrued interest, is hereby appropriated to the industrial commission for the discharge of all liability for special additional indemnity accruing under this subsection.

(f) For the proper administration of the funds available under subdivisions (d) and (e) the commission shall, by order, set aside in the state treasury suitable reserves to carry to maturity the liability for special additional indemnity in each case, and for any contingent death benefit.

SECTION 3. The second paragraph of subdivision (d) of subsection (2), subdivision (d) of subsection (4), subdivision (k) of subsection (5), paragraph (39) of subdivision (a) of subsection (5) of section 2394—9, section 2394—18a, subsection 2 of section 2394—24, subsections 1 and 2 of section 2394—25 and section 2394—29 of the statutes are amended to read: (Section 2394—9) (2) (d) In case of temporary or partial disability aggregate indemnity for injury to an employe caused by single accident shall not exceed four times the average annual earnings of such employe, except a larger recovery results under the provisions of subsections (5) or (6) 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:

(d) * * * *Where death proximately results from the accident* the death benefit shall include reasonable expense for burial, not exceeding one hundred dollars.

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

(Section 2394—9) (5) (a) (39) The loss of an eye by enucleation *or evisceration*, one hundred sixty weeks;

Section 2394—18a. Whenever an award is made by the commission against any county, city, village, * * * town, *or school district*, the person in whose favor it is made shall file a certified copy thereof with the county, city, village, * * * town, *or school district 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, * * * town, *or school district* 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, * * * towns, *and school districts* shall not apply to the payment of an award or judgment under the provisions of this section.

(Section 2394—24.) 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. *As a condition for the granting of an exemption the commission shall have authority to require the*

employer to furnish such security as it may consider sufficient to insure payment of all claims under compensation. Where the security is in the form of a bond or other personal guaranty, the commission may at any time either before or after the entry of an award, upon at least ten days' notice and opportunity to be heard require the sureties to pay the amount of the award, the same to be enforced in like manner as the award itself may be enforced.

(Section 2394—25) 1. The making of a lawful claim against an employer or compensation insurer for compensation under sections 2394—3 to 2394—31, inclusive, for the injury or death of * * * an 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 or insurer may enforce in * * * their own name or names the liability of such other party for their benefit as their interests may appear. If a recovery shall be had against such other party, by suit or otherwise, the compensation beneficiary or beneficiaries shall be entitled to any amount recovered over and above the amount that the employer or insurer, or both, have paid or are liable for in compensation to such beneficiary or beneficiaries, after deducting reasonable cost of collection, and in no event shall the beneficiary receive less than one-third the amount recovered from the third party, less the reasonable cost of collection. Settlements of such claims and the distribution of the proceeds therefrom must have the approval of the court wherein the litigation is pending, or if not in suit, of the industrial commission. The beneficiary shall be entitled to reasonable notice and opportunity to be present in person or by counsel at the approval proceedings. The failure of the employer or compensation insurer in interest to pursue his remedy against the third party within ninety days after written demand by a compensation beneficiary, shall entitle such beneficiary or his representatives to enforce liability in his own name, accounting of the proceeds to be made on the basis above provided.

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

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. *Every employer who shall have affirmatively elected not to accept the provisions of sections 2394—3 to 2394—31, inclusive, shall post and maintain printed notices of such non-election on their premises, of such design, in such numbers, and at such places as the commission, shall, by order, determine to be necessary to give information to their employes.*

SECTION 4. Paragraphs (40) and (42) of subdivision (a) of subsection (5) of section 2394—9 of the statutes are repealed.

SECTION 5. Paragraphs (33a) to paragraph (46), both inclusive, of subdivision (a) of subsection (5) of section 2394—9 of the statutes are renumbered to be paragraphs (34) to paragraph (45) respectively, both inclusive.

SECTION 6. This act shall take effect August 1st. after passage and publication.

Approved July 29, 1919.

No. 674, A.]

[Published Aug. 1, 1919.

CHAPTER 681.

AN ACT to create section 1759b of the statutes, relating to non par stock in corporations.

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

SECTION 1. A new section is added to the statutes to read: Section 1759b. 1. Any corporation may, if so provided in its articles of incorporation or in an amendment thereof, issue shares of stock (other than stock preferred as to dividends or preferred as to its distributive share of the assets of the corporation or subject to redemption at a fixed price) without any nominal or par value. Every share of such stock without nominal or par value shall be equal to every other share of such stock, except that the articles of incorporation may provide that such stock shall be divided into different classes with such designations and voting