

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967

## ENROLLED

SENATE BILL NO. <sup>Com. Sub. No.</sup> 224

(By Mr. Cason [Mr. President] and  
Mr. Worland original sponsors)

PASSED March 10, 1967

In Effect July 1, 1967 ~~Passage~~

FILED IN THE OFFICE  
ROBERT D. BAILEY  
SECRETARY OF STATE  
THIS DATE 3-21-67

# 224

**ENROLLED**  
JUDICIARY  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 224**

(MR. CARSON [MR. PRESIDENT] and MR. MORELAND original  
sponsors).

[Passed March 10, 1967; in effect July 1, 1967.]

AN ACT to amend and reenact sections one, four, six, eight, ten,  
fifteen, fifteen-b and fifteen-c, article four, chapter twenty-  
three of the code of West Virginia, one thousand nine hun-  
dred thirty-one, as amended, relating to workmen's com-  
pensation.

*Be it enacted by the Legislature of West Virginia:*

That sections one, four, six, eight, ten, fifteen, fifteen-b and  
fifteen-c, article four, chapter twenty-three of the code of West  
Virginia, one thousand nine hundred thirty-one, as amended,  
be amended and reenacted, all to read as follows:

**ARTICLE 4. DISABILITY AND DEATH BENEFITS.**

**§23-4-1. To whom compensation fund disbursed; silicosis and other occupational diseases included in "injury" and "personal injury"; definition of silicosis and other occupational diseases.**

Subject to the provisions and limitations elsewhere in  
2 this chapter set forth, the commissioner shall disburse the  
3 workmen's compensation fund to the employees of such  
4 employers as are not delinquent in the payment of pre-  
5 miums for the quarter in which the injury occurs, and in  
6 case of catastrophe, in addition to the employees next  
7 above described, to the employees of employers who have  
8 elected, under section nine, article two of this chapter, to  
9 make payments into the surplus fund as provided in that  
10 section, and which employees shall have received personal  
11 injuries in the course of and resulting from their employ-  
12 ment in this state, or in temporary employment without  
13 the state as provided in section one, article two of this  
14 chapter, or to the dependents, if any, of such employees  
15 in case death has ensued, according to the provisions here-  
16 inafter made; and also for the expenses of the administra-

17 tion of this chapter, as provided in section two, article one  
18 of this chapter.

19 For the purposes of this chapter the terms "injury" and  
20 "personal injury" shall be extended to include silicosis  
21 and any other occupational disease as hereinafter defined,  
22 and the commissioner shall likewise disburse the work-  
23 men's compensation fund to the employees of such em-  
24 ployers as are not delinquent in the payment of premiums  
25 for the last quarter in which such employees have been  
26 exposed to the hazard of silicon dioxide dust or to any  
27 other occupational hazard, and have contracted silicosis  
28 or other occupational disease, or have suffered a per-  
29 ceptible aggravation of an existing silicosis, in this state  
30 in the course of and resulting from their employment, or  
31 to the dependents, if any, of such employees, in case  
32 death has ensued, according to the provisions hereinafter  
33 made: *Provided, however,* That compensation shall not  
34 be payable for the disease of silicosis, or death resulting  
35 therefrom, unless in the state of West Virginia the em-  
36 ployee has been exposed to the hazard of silicon dioxide  
37 dust over a continuous period of not less than two years

38 during the ten years immediately preceding the date of  
39 his last exposure to such hazards. An application for bene-  
40 fits on account of silicosis shall set forth the name of the  
41 employer or employers and the time worked for each, and  
42 the commissioner may allocate to and divide any charges  
43 on account of such claim among the employers by whom  
44 the claimant was employed for as much as sixty days  
45 during the period of three years immediately preceding  
46 the filing of the application. The allocation shall be based  
47 upon the time and degree of exposure with each employer.

48 For the purpose of this chapter silicosis is defined as an  
49 insidious fibrotic disease of the lung or lungs due to the  
50 prolonged inhalation and accumulation, sustained in the  
51 course of and resulting from employment, of minute par-  
52 ticles of dust containing silicon dioxide ( $\text{SiO}_2$ ) over such  
53 a period of time and in such amounts as result in the  
54 substitution of fibrous tissues for normal lung tissues,  
55 whether or not accompanied by tuberculosis of the lungs.

56 Whenever the expression "injurious exposure to silicon  
57 dioxide dust", or "injurious exposure to silicon dioxide  
58 dust in harmful quantities", or "exposure to the hazard

59 of silicon dioxide dust", or any similar language shall  
60 appear in this chapter, such expression shall be construed  
61 to mean the exposure of an employee in the course of his  
62 employment to a working condition in which the air con-  
63 tains such a concentration of silicon dioxide dust that the  
64 breathing of such air by a person over a long period of  
65 time would be likely to cause him to contract the disease  
66 of silicosis.

67 For the purpose of this chapter, occupational disease  
68 means a disease incurred in the course of and resulting  
69 from employment. No ordinary disease of life to which  
70 the general public is exposed outside of the employment  
71 shall be compensable except when it follows as an inci-  
72 dent of occupational disease as defined in this chapter.  
73 Except in the case of silicosis, a disease shall be deemed  
74 to have been incurred in the course of or to have resulted  
75 from the employment only if it is apparent to the rational  
76 mind, upon consideration of all the circumstances (1)  
77 that there is a direct causal connection between the condi-  
78 tions under which work is performed and the occupational  
79 disease, (2) that it can be seen to have followed as a

80 natural incident of the work as a result of the exposure  
81 occasioned by the nature of the employment, (3) that it  
82 can be fairly traced to the employment as the proximate  
83 cause, (4) that it does not come from a hazard to which  
84 workmen would have been equally exposed outside of the  
85 employment, (5) that it is incidental to the character of  
86 the business and not independent of the relation of em-  
87 ployer and employee, and (6) that it must appear to  
88 have had its origin in a risk connected with the employ-  
89 ment and to have flowed from that source as a natural  
90 consequence, though it need not have been foreseen or ex-  
91 pected before its contraction.

92 Except in the case of silicosis, no award shall be made  
93 under the provisions of this chapter for any occupational  
94 disease contracted prior to the first day of July, one thou-  
95 sand nine hundred forty-nine. An employee shall be  
96 deemed to have contracted an occupational disease within  
97 the meaning of this paragraph if the disease or condition  
98 has developed to such an extent that it can be diagnosed  
99 as an occupational disease.

**§23-3-4. Funeral expenses.**

1 In case the personal injury causes death, and disabil-  
 2 ity is continuous from the date of such injury to date  
 3 of death, reasonable funeral expenses, not to exceed  
 4 five hundred dollars, shall be paid from the fund, pay-  
 5 ment to be made to the persons who have furnished the  
 6 services and supplies, or to the persons who have ad-  
 7 vanced payment for same, as the commissioner may  
 8 deem proper, in addition to such award as may be made  
 9 to the employee's dependents.

**§23-4-6. Classification of disability benefits.**

1 Where compensation is due an employee under the  
 2 provisions of this chapter for a personal injury other  
 3 than the first stage silicosis, such compensation shall be  
 4 as provided in the following schedule:

5 (a) If the injury causes temporary total disability, the  
 6 employee shall receive during the continuancethereof sixty-  
 7 six and two-thirds per cent of his average weekly earnings,  
 8 not to exceed a maximum of forty-seven dollars a week nor  
 9 to be less than a minimum of twenty-four dollars a week.

10 (b) Subsection (a) shall be limited as follows: Aggregate



11 award for a single injury causing temporary disability shall  
12 be for a period not exceeding two hundred eight weeks.

13 (c) If the injury causes permanent disability, the  
14 percentage of disability to total disability shall be de-  
15 termined and the award computed and allowed as fol-  
16 lows:

17 For permanent disability of from one per cent to  
18 eighty-four per cent, inclusive, sixty-six and two-thirds  
19 per cent of the average weekly earnings for a period  
20 to be computed on the basis of four weeks compensation  
21 for each per cent of disability determined.

22 For a disability of eighty-five to one hundred per cent,  
23 sixty-six and two-thirds per cent of the average weekly  
24 earnings during the remainder of life.

25 (d) If the injury results in the total loss by sever-  
26 ance of any of the members named in this subdivision,  
27 the percentage of disability shall be determined in  
28 accordance with the following table, and award made as  
29 provided in subdivision (c) of this section:

30 The loss of a great toe shall be considered a ten per  
31 cent disability.

32 The loss of a great toe (one phalanx) shall be consid-  
33 ered a five per cent disability.

34 The loss of other toes shall be considered a four per  
35 cent disability.

36 The loss of other toes (one phalanx) shall be consid-  
37 ered a two per cent disability.

38 The loss of all toes shall be considered a twenty-five  
39 per cent disability.

40 The loss of fore part of foot shall be considered a  
41 thirty per cent disability.

42 The loss of foot shall be considered a thirty-five per  
43 cent disability.

44 The loss of a leg shall be considered a forty-five per  
45 cent disability.

46 The loss of thigh shall be considered a fifty per cent  
47 disability.

48 The loss of thigh at hip joint shall be considered a  
49 sixty per cent disability.

50 The loss of little or fourth finger (one phalanx) shall  
51 be considered a three per cent disability.

52 The loss of little or fourth finger shall be considered  
53 a five per cent disability.

54 The loss of ring or third finger (one phalanx) shall be  
55 considered a three per cent disability.

56 The loss of ring or third finger shall be considered a  
57 five per cent disability.

58 The loss of middle or second finger (one phalanx)  
59 shall be considered a three per cent disability.

60 The loss of middle or second finger shall be considered  
61 a seven per cent disability.

62 The loss of index or first finger (one phalanx) shall  
63 be considered a six per cent disability.

64 The loss of index or first finger shall be considered a  
65 ten per cent disability.

66 The loss of thumb (one phalanx) shall be considered  
67 a twelve per cent disability.

68 The loss of thumb shall be considered a twenty per  
69 cent disability.

70 The loss of thumb and index finger shall be consid-  
71 ered a thirty-two per cent disability.

72 The loss of index and middle finger shall be considered  
73 a twenty per cent disability.

74 The loss of middle and ring finger shall be consid-  
75 ered a fifteen per cent disability.

76 The loss of ring and little finger shall be considered  
77 a ten per cent disability.

78 The loss of thumb, index and middle finger shall be  
79 considered a forty per cent disability.

80 The loss of index, middle and ring finger shall be  
81 considered a thirty per cent disability.

82 The loss of middle, ring and little finger shall be con-  
83 sidered a twenty per cent disability.

84 The loss of four fingers shall be considered a thirty-  
85 two per cent disability.

86 The loss of hand shall be considered a fifty per cent  
87 disability.

88 The loss of forearm shall be considered a fifty-five  
89 per cent disability.

90 The loss of arm shall be considered a sixty per cent  
91 disability.

92 The total and irrevocable loss of the sight of one eye  
93 shall be considered a thirty-three per cent disability.

94 For the partial loss of vision in one, or both  
95 eyes, the percentage of disability shall be determined  
96 by the commissioner, using as a basis the total loss of  
97 one eye.

98 The total and irrevocable loss of the hearing of one  
99 ear shall be considered a fifteen per cent disability, and  
100 the injured employee shall be entitled to compensation  
101 for a period of sixty weeks. The total and irrevocable  
102 loss of the hearing of both ears shall be considered a  
103 forty-five per cent disability, and the injured employee  
104 shall be entitled to compensation for a period of one  
105 hundred eighty weeks.

106 For the partial loss of hearing in one, or both ears,  
107 the percentage of disability shall be determined by the  
108 commissioner, using as a basis the total loss of hearing in  
109 both ears.

110 (e) Should a claimant to whom has been made a  
111 permanent partial award of from one per cent to eighty-  
112 four per cent, both inclusive, die from sickness or non-  
113 compensable injury, the unpaid balance of such award  
114 shall be paid to claimant's dependents as defined in

115 this chapter, if any; such payment to be made in the  
116 same installments that would have been paid to claim-  
117 ant if living: *Provided, however,* That no payment shall  
118 be made to any widow of such claimant after her re-  
119 marriage, and that this liability shall not accrue to  
120 the esate of such claimant and shall not be subject to  
121 any debts of, or charges against, such estate.

122 (f) The award for permanent disabilities intermediate  
123 to those fixed by the foregoing schedule and permanent  
124 disability of from one per cent to eighty-four per cent  
125 shall be in the same proportion and shall be computed  
126 and allowed by the commissioner.

127 (g) The percentage of all permanent disabilities other  
128 than those enumerated in subdivisions (c), (d), (e) and  
129 (f) of this section shall be determined by the commis-  
130 sioner, and award made in accordance with the provi-  
131 sions of subdivision (c).

132 (h) Compensation payable under any subdivision of  
133 this section shall be limited as follows: Not to exceed  
134 a maximum of forty-seven dollars a week nor to be less  
135 than a minimum of twenty-four dollars a week.

136 (i) Where an injury results in temporary total dis-  
137 ability for which compensation is awarded under sub-  
138 division (a) of this section and such injury is later  
139 determined permanent partial disability under subdivi-  
140 sion (c), the amount of compensation so paid shall  
141 be considered as payment of the compensation payable  
142 for such injury in accordance with the schedule in sub-  
143 division (c): *Provided further*, That in cases where the  
144 amount of permanent partial disability is specifically  
145 provided for under subdivision (d) of this section, pay-  
146 ments made under subdivision (a) shall not be consid-  
147 ered as payment of the compensation for such injury.  
148 Compensation, either total temporary or permanent par-  
149 tial, under this section shall be payable only to the injured  
150 employee and the right thereto shall not vest in his or  
151 her estate, except that any unpaid compensation which  
152 would have been paid or payable to the employee up  
153 the time of his death, if he had lived, shall be paid to  
154 the dependents of such injured employee if there be  
155 such dependents at the time of death.

156 (j) The following permanent disabilities shall be con-  
157 clusively presumed to be total in character:

158 Loss of both eyes or the sight thereof.

159 Loss of both hands or the use thereof.

160 Loss of both feet or the use thereof.

161 Loss of one hand and one foot or the use thereof.

162 In all other cases permanent disability shall be deter-  
163 mined by the commissioner in accordance with the facts  
164 in the case, and award made in accordance with the  
165 provisions of subdivision (c).

**§23-4-8. Physical examination of claimant; expenses.**

1 The commissioner shall have authority, after due no-  
2 tice to the employer and claimant, whenever in his opin-  
3 ion it shall be necessary, to order a claimant of com-  
4 pensation for a personal injury other than silicosis or  
5 other occupational disease to appear for examination  
6 before a medical examiner or examiners selected by  
7 the commissioner; and the claimant and employer, re-  
8 spectively, shall each have the right to select a physi-  
9 cian of his or its own choosing and at his or its own  
10 expense to participate in such examination. The claim-



11 ant and employer shall, respectively, be furnished with  
12 a copy of the report of examination made by the medi-  
13 cal examiner or examiners selected by the commissioner.  
14 The respective physicians selected by the claimant and  
15 employer shall have the right to concur in any report  
16 made by the medical examiner or examiners selected  
17 by the commissioner, or each may file with the commis-  
18 sioner a separate report, which separate report shall  
19 be considered by the commissioner in passing upon the  
20 claim. If the compensation claimed is for silicosis, the  
21 commissioner shall have the power, after due notice  
22 to the employer, and whenever in his opinion it shall  
23 be necessary, to order a claimant to appear for exami-  
24 nation before the silicosis medical board hereinafter  
25 provided. If the compensation claimed is for an occu-  
26 pational disease other than silicosis, the commissioner  
27 shall have the power after due notice to the employer,  
28 and whenever in his opinion it shall be necessary, to  
29 order a claimant to appear for examination before  
30 the occupational diseases medical board hereinafter pro-  
31 vided. In any case the claimant shall be entitled to

32 reasonable traveling and other expenses necessarily  
33 incurred by him in obeying such order, which shall be  
34 paid out of the amount allowed under this chapter for  
35 medical, surgical, dental and hospital treatment.

36 Where the claimant is required to undergo a medi-  
37 cal examination or examinations by a physician or physi-  
38 cians selected by the employer, in addition to the reason-  
39 able traveling and other expenses, not to exceed the ex-  
40 penses paid when a claimant is examined by a physician  
41 or physicians selected by the commissioner, such claimant  
42 shall be reimbursed by the employer for loss of wages  
43 necessarily incurred by him in connection with such ex-  
44 amination or examinations.

**§23-4-10. Classification of death benefits; “dependent” defined.**

In case a personal injury other than silicosis or other  
2 occupational diseases, suffered by an employee in the  
3 course of and resulting from his employment, causes  
4 death within the period of ten years and disability is con-  
5 tinuous from date of such injury until date of death, or if  
6 death results from silicosis or from any other occupational  
7 disease within ten years from the date of the last ex-

8   posure to the hazard of silicon dioxide dust or to the other  
9   particular occupational hazard involved, as the case may  
10   be, the benefits shall be in the amounts and to the persons  
11   as follows:

12   (a) If there be no dependents, the disbursements shall  
13   be limited to the expense provided for in sections three  
14   and four of this article.

15   (b) If the deceased employee leaves a dependent  
16   widow or invalid widower, the payment shall be ninety  
17   dollars a month until death or remarriage of such widow  
18   or widower, and in addition twenty-five dollars a month  
19   for each child under eighteen years of age, to be paid until  
20   such child reach such age, or where such child after reach-  
21   ing eighteen years of age continues as a full-time student  
22   in an accredited high school, college, university, business  
23   or trade school, to be paid until such child reaches the age  
24   of twenty-two years, or, if an invalid child, thirty-five  
25   dollars and fifty cents a month, to continue as long as  
26   such child remains an invalid: *Provided, however, That*  
27   if such widow or invalid widower shall remarry within  
28   ten years from the date of the death of such employee,

29 such widow or widower shall be paid at the time of re-  
30 marriage twenty per cent of the amount that would be  
31 due for the period remaining between the date of such  
32 remarriage and the end of ten years from the date of  
33 death of such employee, and such widow or widower shall  
34 be advised in writing by the commissioner of his or her  
35 rights under this proviso at the time of making the original  
36 award: *Provided further*, That if upon investigation and  
37 hearing, as provided in article five of this chapter, it shall  
38 be ascertained that such widow or widower is living with  
39 a man or woman, as the case may be, as man and wife  
40 and not married, or that the widow is living a life of  
41 prostitution, the commissioner shall stop the payments of  
42 the benefits herein provided to such widow or widower.

43 If the deceased employee be a widow or widower and  
44 leaves a child or children under the age of eighteen years,  
45 the payments shall be thirty dollars a month to each child  
46 until he or she reaches the age of eighteen years, or where  
47 such child after reaching eighteen years of age continues  
48 as a full-time student in an accredited high school, college,  
49 university, business or trade school to be paid until such  
50 child reaches the age of twenty-two years.

51 In all awards of compensation to children, unless other-  
52 wise provided herein, the award shall be until they reach  
53 the age of eighteen years or until their death prior thereto.

54 (c) If the deceased employee leaves no dependent  
55 widow or widower and leaves a wholly dependent father  
56 or mother, he or she shall be paid the sum of seventy  
57 dollars a month, payments to continue until death, and if  
58 there be no widow or widower and both the father and  
59 mother are wholly dependent, then a joint award shall be  
60 made to the father and mother in the sum of seventy  
61 dollars a month until death.

62 Upon the death of either the father or mother in any  
63 case in which a joint award has been made to them, the  
64 full award of seventy dollars a month shall be paid to the  
65 survivor until his or her death.

66 (d) If the deceased employee leaves no dependent  
67 widow or widower or wholly dependent father or mother  
68 but there are other wholly dependent persons, as defined  
69 in paragraph (f) of this section, the payment shall be  
70 fifty-seven dollars and fifty cents a month, to continue for  
71 six years after the death of the deceased, except as other-  
72 wise provided herein.

73 (e) If the deceased employee leaves no dependent  
 74 widow or widower, child under eighteen years of age, or  
 75 wholly dependent person, but there are partially depend-  
 76 ent persons at the time of death, the payment shall be  
 77 thirty dollars a month, to continue for such portion of the  
 78 period of six years after the death, as the commissioner  
 79 may determine, but no such partially dependent person  
 80 shall receive compensation payments as a result of the  
 81 death of more than one employee.

82 Compensation under subdivisions (b), (c), (d) and (e)  
 83 hereof shall, except as may be specifically provided to  
 84 the contrary therein, cease upon the death of the depend-  
 85 ent, and the right thereto shall not vest in his or her estate.

86 (f) Dependent, as used in this chapter, shall mean a  
 87 widow, invalid widower, child under eighteen years of  
 88 age, or under twenty-two years of age when a full-time  
 89 student as provided herein, invalid child or posthumous  
 90 child, who, at the time of the injury causing death, is de-  
 91 pendent in whole or in part for his or her support upon  
 92 the earnings of the employee; also the following persons  
 93 who are and continue to be residents of the United States

94 or its territorial possessions: Stepchild under eighteen  
95 years of age, or under twenty-two years of age when a  
96 full-time student as provided herein, child under eighteen  
97 years of age legally adopted prior to the injury causing  
98 death, or under twenty-two years of age when a full-time  
99 student as provided herein, father, mother, grandfather or  
100 grandmother, who at the time of the injury causing death,  
101 is dependent in whole or in part for his or her support  
102 upon the earnings of the employee; an invalid brother or  
103 sister wholly dependent for his or her support upon the  
104 earnings of the employee at the time of the injury causing  
105 death.

**§23-4-15. Application for benefits; report of injuries by employer.**

To entitle any employee or dependent of a deceased  
2 employee to compensation under this chapter, other than  
3 for silicosis or other occupational disease, the application  
4 therefor must be made on the form or forms prescribed  
5 by the commissioner and filed in the office of the com-  
6 missioner within one year from and after the injury or  
7 death, as the case may be, and all proofs of dependency

8 in fatal cases must likewise be filed with the commissioner  
9 within one year from and after the death. In case the  
10 employee is mentally or physically incapable of filing  
11 such application, it may be filed by his attorney or by a  
12 member of his family. It shall be the duty of every  
13 employer to report to the commissioner every injury  
14 sustained by any person in his employ. Such report shall  
15 be on forms prescribed by the commissioner and shall  
16 be made within sixty days from the date the employer  
17 first receives knowledge of such injury.

18 To entitle any employee to compensation for silicosis  
19 under the provisions hereof, the application therefor  
20 must be made on the form or forms prescribed by the  
21 commissioner and filed in the office of the commissioner  
22 within three years from and after the last day of the  
23 last continuous period of sixty days or more during which  
24 the employee was exposed to the hazard of silicon dioxide  
25 dust or to the other particular occupational hazard in-  
26 volved, as the case may be, or, in the case of death, the  
27 application shall be filed as aforesaid by the dependent  
28 of such employee within one year from and after such  
29 employee's death.



30 To entitle any employee to compensation for occupa-  
31 tional disease other than silicosis under the provisions  
32 hereof, the application therefor must be made on the  
33 form or forms prescribed by the commissioner and filed  
34 in the office of the commissioner within three years from  
35 and after the day on which the employee was last exposed  
36 to the particular occupational hazard involved, or, in  
37 the case of death, the application shall be filed as afore-  
38 said by the dependent of such employee within one year  
39 from and after such employee's death.

**§23-4-15b. Determination of nonmedical questions by commis-  
sioner—claims for silicosis; hearing.**

If a claim for silicosis benefits be filed by an employee,  
2 the commissioner shall determine whether the claimant  
3 was exposed to the hazard of silicon dioxide dust for a  
4 continuous period of not less than sixty days while in the  
5 employ of the employer within three years prior to the  
6 filing of his claim, and whether in the state of West Vir-  
7 ginia the claimant was exposed to such hazard over a  
8 continuous period of not less than two years during the ten  
9 years immediately preceding the date of his last exposure

10 thereto. If a claim for silicosis benefits be filed by a  
11 dependent of a deceased employee, the commissioner shall  
12 determine whether the deceased employee was exposed  
13 to the hazard of silicon dioxide dust for a continuous  
14 period of not less than sixty days while in the employ  
15 of the employer within ten years prior to the filing of the  
16 claim, and whether in the state of West Virginia the de-  
17 ceased employee was exposed to such hazard over a con-  
18 tinuous period of not less than two years during the ten  
19 years immediately preceding the date of his last exposure  
20 thereto. The commissioner shall also determine such  
21 other nonmedical facts as may in his opinion be pertinent  
22 to a decision on the validity of the claim.

23 The commissioner shall give each interested party  
24 notice in writing of his findings with respect to all such  
25 nonmedical facts and such findings shall be subject to  
26 objection and hearing as provided in section one, article  
27 five of this chapter.

**§23-4-15c. Same—hearing on claim for occupational diseases  
other than silicosis.**

On the hearing of a claim for compensation for an  
2 occupational disease other than silicosis, the commissioner

3 shall hear, determine and file findings covering, but not  
4 limited to, the following nonmedical questions:

5 (a) Whether the employee was in fact, within three  
6 years prior to the filing of his claim, in the employ of  
7 the employer, and, if so, the duration of such employment  
8 and whether or not such employment was subject to the  
9 provisions hereof.

10 (b) The occupation or occupations, process or proc-  
11 esses, in which the employee was engaged during such  
12 employment and the approximate periods of work in  
13 each such occupation or process.

14 (c) The employments, previous and subsequent to the  
15 employment out of which the claim arose, the duration  
16 thereof and the exposure therein to the hazard causing  
17 the occupational disease.

18 (d) Whether the last injurious exposure to the hazard  
19 causing occupational disease in the employment with  
20 the employer occurred within three years prior to the  
21 filing of the claim, and if the employee is no longer in  
22 the service of the employer, the date upon which such  
23 employee ceased so to work; and, if the employee has

24 died, the date and place of such death, and the place of  
25 interment of the body.

26 The parties may in writing waive the hearing required  
27 by this section, in which case the commissioner shall  
28 determine the nonmedical facts listed above, and such  
29 other nonmedical facts as may in his opinion be pertinent  
30 to a decision on the validity of the claim.

31 The commissioner shall give each interested party  
32 notice in writing of his findings with respect to all such  
33 nonmedical facts, and such findings shall be subject to  
34 objection and hearing as provided in section one, article  
35 five of this chapter.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*William Tompos*  
Chairman Senate Committee

*Clayton C. Davidson*  
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1967.

*Howard Myers*  
Clerk of the Senate

*C. B. Blankenship*  
Clerk of the House of Delegates

*Howard E. Carson*  
President of the Senate

*H. Laban White*  
Speaker House of Delegates

The within *approved* this the *21*  
day of *March*, 1967.

*Huette C. Smith*  
Governor



PRESENTED TO THE  
GOVERNOR

Date 3/21/67

Time 2:20pm