
New York Worker's Compensation Act

Law

By: New York State Legislature

Date: 1910

Source: New York State Legislature. *New York Worker's Compensation Act* (1910). Reprinted in Hall, Kermit, William M. Wiecek, and Paul Finkelman. *American Legal History: Cases and Materials*, 2nd ed. New York: Oxford University Press, 1996, 359–361.

About the Organization: New York formed its state legislature in 1777 but has frequently reshaped it, with changes occurring as recently as 1982. The legislature currently has 211 members, 150 in the Assembly and 61 in the Senate. ■

Introduction

Until the twentieth century, the American workplace was largely unregulated. Growth of the factory system, combined with an American belief in freedom, produced an atmosphere ripe for corporate abuse of workers in nineteenth-century factories. Legal theorists argued that “liberty of contract” gave both workers and companies freedom to agree to wages and working conditions, such as the length of the work week. This view, however, assumed equal bargaining power between the worker and the company, which did not exist in practice. The main recourse for workers injured on the job was the courts and the legislatures. In the courts, a number of legal doctrines prevented workers from receiving compensation for on-the-job injuries, including the “fellow servant rule,” which held that if an accident was caused by a fellow workman, the workman was the one to be sued, not the employer. Another doctrine was “assumption of risk,” meaning that a worker assumed the risks inherent in any job and so could not sue if injured. The legislatures, like the courts, offered injured workers little relief, for they were generally sympathetic to employers.

By the beginning of the twentieth century, many states had banned child labor and had limited the number of hours women could be required to work. In a few professions, some states had limited hours for both men and women. Because they were often perceived as radi-

cal, labor unions had fallen into some disrepute in the late nineteenth century, but by 1910, this perception had begun to fade. The Progressive movement in American politics was aiming the spotlight on poor labor conditions, and many states decided to act by passing worker's compensation acts. These laws ended the fellow servant rule and offered the worker guaranteed compensation for injuries without the need to sue the employer.

Significance

Worker's compensation acts were advantageous to workers, but many employers welcomed them as well. For the employer, they provided predictability. Employers paid into a general fund from which awards were paid, so they did not have to run the risk of paying a ruinous award in the event an employee sued and won. Under the *New York Worker's Compensation Act*, as under laws, employers paid a certain amount to the state, an expense they could plan into their budgets. Additionally, employees surrendered the right to sue corporations, and the cap on liability was low. Payments to workers, regardless of the extent of their injury or the event of death, could continue only for eight years, and the amount paid could not exceed ten dollars a week, a relatively small sum even in the early twentieth century.

Some railroad workers made up to a thousand dollars a year, or twenty dollars a week, which was twice what was recoverable. These systems were sometimes challenged, and the New York act was struck down in *Ives v. South Buffalo Railway Co.* (1911), but a new worker's compensation law was soon adopted. The system has been improved in years since. Worker's compensation awards have been supplemented by Social Security, which allows most employees who have worked five years or more to receive disability payments when totally disabled. Worker's compensation laws in the early twentieth century thus laid the groundwork for more recent laws.

Primary Source

New York Worker's Compensation Act [excerpt]

SYNOPSIS: The act only applies to dangerous labor activities. It holds the employer liable when the risk is inherent in the employment or when the employer is required to exercise “due care.” It defines the compensation, limiting it to 1,200 days' pay if the worker was married and died; if the worker was disabled, the act provided payment of 50 percent of his wages for up to eight years, but no more than \$10 a week.

AN ACT to amend the labor law, in relation to workmen's compensation in certain dangerous employments.



Memorial parade for employees who perished in the Triangle Shirtwaist fire, April 5, 1911. THE LIBRARY OF CONGRESS.

Application of article. This article shall apply only to workmen engaged in manual or mechanical labor in the following employments, each of which is hereby determined to be especially dangerous, in which from the nature, conditions or means of prosecution of the work therein, extraordinary risks to the life and limb of workmen engaged therein are inherent, necessary or substantially unavoidable, and as to each of which employments it is deemed necessary to establish a new system of compensation for accidents to workmen. . . .

[The statute then itemized eight categories of dangerous labor, including demolition, blasting, tunneling, electrical construction, and railroad operation.]

Sec. 217. Basis of liability. If, in the course of any of the employments above described, personal injury by accident arising out of and in the course of the employment after this article takes effect is caused to any workman employed therein, in whole or in part, or the damage or injury caused thereby is in whole or in part contributed to by

- a. A necessary risk or danger of the employment or one inherent in the nature thereof; or
- b. Failure of the employer of such workman or any of his or its officers, agents or employees

to exercise due care, or to comply with any law affecting such employment; then such employer shall . . . be liable to pay compensation at the rates set out in section two hundred and nineteen-a of this title; provided that the employer shall not be liable in respect of any injury which does not disable the workman for a period of at least two weeks from earning full wages at the work at which he was employed, and provided that the employer shall not be liable in respect of any injury to the workman which is caused in whole or in part by the serious and willful misconduct of the workman. . . .

Sec. 219-a. Scale of compensation. The amount of compensation shall be in case death results from injury:

- a. If the workman leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of such workman at the rate at which he was being paid by such employer at the time of the injury subject as hereinafter provided, and in no event more than three thousand dollars. Any weekly pay-



The Triangle Shirtwaist fire, which killed 146 people, demonstrated the need for worker's compensation. © CORBIS. REPRODUCED BY PERMISSION.

ments made under this article shall be deducted in ascertaining such amount. . . .

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2. Where total or partial incapacity for work at any gainful employment results to the workman from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during such incapacity . . . equal to fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer[.] . . .

In no event shall any compensation paid under this article exceed the damage suffered, nor shall any weekly payment payable under this article in any event exceed ten dollars a week or extend over more than eight years from the date of the accident.

Further Resources

BOOKS

Horwitz, Morton J. *The Transformation of American Law, 1780–1860*. New York: Oxford University Press, 1992.

Karsten, Peter. *Heart Versus Head: Judge-Made Law in Nineteenth-Century America*. Chapel Hill, N.C.: University of North Carolina Press, 1997.

Novokov, Julie. *Constituting Workers, Protecting Women: Gender, Law, and Labor in the Progressive Era and New Deal Years*. Ann Arbor, Mich.: University of Michigan Press, 2001.

WEBSITES

Bonney, Doug. "A Brief and Incomplete Tour of U.S. Labor Law: Where We Are, How We Got Here, and Who Drove the Bus." Available online at <http://www.kclabor.org/bonney623talk.htm>; website home page: <http://www.kclabor.org/index.html> (accessed January 22, 2003).

Lause, Mark. "American Labor History: An Online Study Guide." Available online at <http://www.geocities.com/CollegePark/Quad/6460/AmLabHist/>; website home page: <http://www.geocities.com> (accessed January 22, 2003).

Standard Oil Co. of New Jersey v. U.S.

Supreme Court decision

By: Edward D. White and John Marshall Harlan

Date: 1911

Source: White, Edward D., and John Marshall Harlan. *Standard Oil Co. of New Jersey v. U.S.*, 221 U.S. 1 (1910). Available online at <http://caselaw.lp.findlaw.com/scripts>