

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 591

S. P. 210

In Senate, January 27, 1965

Referred to Committee on Labor. Sent down for concurrence and ordered printed.

EDWIN H. PERT, Secretary

Presented by Senator Stern of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT to Revise Certain Portions of Workmen's Compensation Law.

Be it enacted by the People of the State of Maine, as follows :

Sec. 1. R. S., T. 39, § 52, amended. The first 2 sentences of the 2nd paragraph of section 52 of Title 39 of the Revised Statutes are repealed and the following enacted in place thereof :

'Upon knowledge or notice of such injury the employer shall furnish to the employee the aforesaid aids as well as the names of not less than 3 physicians, reasonably accessible to the employee, one of whom the employee may select to render medical services at the expense of the employer. In case the employer fails to furnish said names or aids, or in case of emergency or other justifiable cause, the employee may procure said services or aids and the commission may order the employer to pay for the same, provided they are necessary and adequate, and the charges therefor are reasonable.'

Sec. 2. R. S., T. 39, § 64-A, additional. Title 39 of the Revised Statutes is amended by adding a new section 64-A to read as follows :

'Sec. 64-A. When employee killed or unable to testify. In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify, there shall be a rebuttable presumption that the employee received a personal injury by accident arising out of and in the course of his employment, that sufficient notice of the injury has been given, and that the injury or death was not occasioned by the willful intention of the employee to injure or kill himself or another.'

Sec. 3. R. S., T. 39, § 100, repealed and replaced. Section 100 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof :

'Sec. 100. Petition for review of incapacity. While compensation is being paid or vocational rehabilitation is being provided under any agreement, award or decree, the incapacity of the injured employee due to the injury, the need or progress of the vocational rehabilitation may from time to time be reviewed by a single commissioner upon the petition of either party upon the grounds that such incapacity has subsequently increased, diminished or ended or that the need of the continuation of vocational rehabilitation has ended. Pending a hearing and final decision upon such petition for review, and except in such cases as the employer and employee may reach a new agreement under section 94, the payment of compensation shall not be decreased or suspended unless and until a certificate of the employer or his insurance carrier is filed with the commission stating that the employee has left the State or that his present whereabouts are unknown, or that he has resumed work. Upon the request of the petitioner, the commission shall order the employee to submit to examination by an impartial physician or surgeon designated by the commission from the geographical area where the employee resides. If the employee refuses to submit to such examination, or if after examination such physician or surgeon certifies to the commission that in his opinion the employee is able to resume work, the payment of compensation may be decreased or suspended pending final decision on the petition for review. The fee for such impartial examination shall be paid by the petitioner.

Upon such review the commissioner may increase, diminish or discontinue such compensation or vocational rehabilitation in accordance with the facts, as the justice of the case may require. If after compensation or vocational rehabilitation has been discontinued, by decree or approved settlement receipt as provided by section 106, additional compensation or further vocational rehabilitation is claimed by an employee for further period of incapacity, he may file with the commission a petition for further compensation or vocational rehabilitation setting forth his claim therefor, hearing upon which shall be held by a single commissioner. The provisions of sections 96 to 99 as to procedure shall apply to the petitions authorized by this section and by section 65; and said provisions shall apply to the petitions authorized by sections 52, 56, 71 and 102, except that such petitions shall be heard by the commission.'

Sec. 4. R. S., T. 39, § 110, additional. Title 39 of the Revised Statutes is amended by adding a new section 110 to read as follows:

'Sec. 110. Employer to pay certain medical witness fees and certain attorneys fees. The commission shall order the employer to reimburse the employee for reasonable medical witness fees incurred in any hearing or review proceeding before it in which the employee prevails. The commission shall order the employer to reimburse the employee for reasonable attorneys fees incurred in any hearing or review proceeding before it if it determines that the position taken by the employer at such hearing or proceeding was without reasonable ground. The commission in each instance shall specify what such fees shall be.'