

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1119

S.P. 391

In Senate, March 26, 2015

**An Act To Amend the Laws Governing the Filing of Wage
Statements by Employers and To Clarify the Statute of Limitations
under the Maine Workers' Compensation Act of 1992**

Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.
Cosponsored by Representative WARD of Dedham and
Senators: LANGLEY of Hancock, VOLK of Cumberland, Representatives: AUSTIN of Gray,
GUERIN of Glenburn, O'CONNOR of Berwick, STETKIS of Canaan.

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

2 **Sec. 1. 39-A MRSA §303**, as amended by PL 2013, c. 63, §8, is further amended
3 to read:

4 **§303. Reports to board**

5 When any employee has reported to an employer under this Act any injury arising out
6 of and in the course of the employee's employment that has caused the employee to lose a
7 day's work, or when the employer has knowledge of any such injury, the employer shall
8 report the injury to the board within 7 days after the employer receives notice or has
9 knowledge of the injury. An insured employer that has notice or knowledge of any such
10 injury and fails to give timely notice to its insurer shall reimburse the insurer for any
11 penalty that is due as a result of the late filing of the report of injury. The employer shall
12 also report the average weekly wages or earnings of the employee, as defined in section
13 102, subsection 4, together with any other information required by the board, within 30
14 days after the employer receives notice or has knowledge of a claim for compensation
15 under section 212, 213 or 215, unless a wage statement has previously been filed with the
16 board. The wage statement must report the earnings or wages of the employee on a
17 weekly basis, except that if the employee is paid on other than a weekly basis, the
18 employer may report the earnings or wages on that basis. A copy of the wage
19 information must be mailed to the employee. The employer shall report when the injured
20 employee resumes the employee's employment and the amount of the employee's wages
21 or earnings at that time. The employer shall complete a first report of injury form for any
22 injury that has required the services of a health care provider within 7 days after the
23 employer receives notice or has knowledge of the injury. The employer shall provide a
24 copy of the form to the injured employee and retain a copy for the employer's records but
25 is not obligated to submit the form to the board unless the injury later causes the
26 employee to lose a day's work. The employer is also required to submit the form to the
27 board if the board has finally adopted a major substantive rule pursuant to Title 5, chapter
28 375, subchapter 2-A to require the form to be filed electronically.

29 **Sec. 2. 39-A MRSA §306, sub-§1**, as amended by PL 2011, c. 647, §18, is
30 further amended to read:

31 **1. Statute of limitations.** Except as provided in this section, a petition brought
32 under this Act is barred unless filed within 2 years after the date of injury or the date the
33 employee's employer files a required first report of injury if required in section 303,
34 whichever is later. This subsection applies to dates of injury occurring on or after
35 January 1, 1993.

36 **Sec. 3. 39-A MRSA §306, sub-§2**, as amended by PL 2001, c. 435, §1 and
37 affected by §2, is further amended to read:

38 **2. Payment of benefits.** If the date of injury is on or after October 17, 1991 and an
39 employer or insurer pays benefits under this Act, with or without prejudice, within the
40 period provided in subsection 1, the period during which an employee or other interested

1 party must file a petition is 6 years from the date of the most recent payment, regardless
2 of whether the employer has filed a first report of injury.

3 If the date of injury is prior to October 17, 1991 and an employer or insurer pays benefits
4 under this Act, with or without prejudice, within the period provided in subsection 1, the
5 period during which an employee or other interested party must file a petition is 10 years
6 from the date of the most recent payment, regardless of whether the employer has filed a
7 first report of injury.

8 A. The provision of medical care for an injury or illness by or under the supervision
9 of a health care provider employed by, or under contract with, the employer is a
10 payment of benefits with respect to that injury or illness if:

11 (1) Care was provided for that injury or illness on 6 or more occasions in the 12-
12 month period after the initial treatment; and

13 (2) The employer or the health care provider knew or should have known that
14 the injury or illness was work-related.

15 For the purposes of this paragraph, "health care provider" has the same meaning as
16 provided in rules of the board.

17 SUMMARY

18 In response to the Law Court decisions in Wilson v. Bath Iron Works Corp., 2008
19 ME 47, 942 A. 2d 1237 and Graves v. Brockway Smith Co., 2012 ME 128, 55 A. 3d 456,
20 this bill amends the law to effectuate results different from those reached by the Court.

21 Current law provides that a petition under the Maine Workers' Compensation Act of
22 1992 is barred unless filed within 2 years after the date of injury or the date that the
23 employer files a required first report of injury, whichever is later. This bill specifies that
24 this provision applies to dates of injury occurring on or after January 1, 1993.

25 Under current law, if an employer or insurer pays benefits under the Maine Workers'
26 Compensation Act of 1992 within 2 years after the date of injury or the date that the
27 employer files a required first report of injury, the period during which a petition must be
28 filed is 6 years from the date of the most recent payment. This bill clarifies that, for dates
29 of injury on or after October 17, 1991, this 6-year limitation applies regardless of whether
30 the employer has filed a first report of injury. This bill also provides that for dates of
31 injury before October 17, 1991, a 10-year limitation applies regardless of whether the
32 employer has filed a first report of injury.