

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1203

H.P. 867

House of Representatives, March 12, 2019

**An Act To Clarify the Retirement Presumption under the Maine
Workers' Compensation Act of 1992**

Reference to the Committee on Labor and Housing suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative SYLVESTER of Portland.

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

2 **Sec. 1. 39-A MRSA §223, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and
3 affected by §§9 to 11, is amended to read:

4 **1. Presumption.** An employee who terminates active employment and is receiving
5 nondisability pension or retirement benefits under either a private or governmental
6 pension or retirement program, including old-age benefits under the United States Social
7 Security Act, 42 United States Code, Sections 301 to 1397f, that was paid by or on behalf
8 of an employer from whom weekly benefits under this Act are sought is presumed not to
9 have a loss of earnings or earning capacity as the result of compensable injury or disease
10 under this Act. This presumption may be rebutted only by a preponderance of evidence
11 that the employee ~~is unable, terminated active employment at least in part~~ because of a
12 work-related disability, ~~to perform work suitable to the employee's qualifications,~~
13 ~~including training or experience. This standard of disability supersedes other applicable~~
14 ~~standards used to determine disability under this Act.~~

15 **SUMMARY**

16 Once an individual receiving workers' compensation benefits retires and is receiving
17 retirement benefits, there is a presumption that the individual is no longer eligible for
18 workers' compensation benefits related to loss of earnings or earning capacity. Under
19 current law, this presumption may be rebutted by evidence that the individual is unable to
20 perform suitable work because of the work-related disability.

21 This bill lowers the evidentiary burden on the retired individual collecting workers'
22 compensation benefits by providing that evidence that the individual's retirement was due
23 at least in part to a work-related disability is sufficient to continue eligibility for workers'
24 compensation benefits related to loss of earnings or earning capacity.