

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE

1954

1955 SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

**Place in Pocket of Corresponding
Volume of Main Set**

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1955

subject to the provisions of sections 155 to 162, inclusive, to open and examine the contents thereof and to seize and hold for evidence any article in whole or in part which he has reason to believe is made or offered for sale in violation of the provisions of sections 155 to 162, inclusive, or the rules and regulations of the department; and any places where any articles covered by said sections are made, remade or offered for sale, or where sterilization or disinfecting is performed under the provisions of said sections, shall be subject to inspection by the department through its officers or agents. (1947, c. 330. 1953, cc. 35, 333. 1955, c. 151, § 3.)

Effect of amendment.—The 1955 amendment inserted the provision empowering the department to inspect the manufacture, sale or delivery of articles, etc., and

to open and examine the contents thereof. It also inserted the words "in whole or in part which he has reason to believe is" near the middle of the section.

Chapter 31.

Industrial Accidents.

The Workmen's Compensation Act.

Sec. 2. Definitions.

II. Employee. "Employee" shall include officials of the state, counties, cities, towns which have accepted the provisions of this act, water districts and all other quasi-municipal corporations of a similar character and every person in the service of another under any contract of hire, express or implied, oral or written, except: (1955, c. 282.)

Effect of amendment.—The 1955 amendment inserted in the introductory paragraph of subsection II the words "officials of the state, counties, cities, towns which have accepted the provisions of this act,

water districts and all other quasi-municipal corporations of a similar character and." As the rest of the section was not changed only the introductory paragraph of subsection II is set out.

Sec. 3. Employers lose common law defenses.

A non-assenting employer has no duty to anticipate an employee's negligence. *Lyle v. Bangor & Aroostook R. R. Co.*, 150 Me. 327, 110 A. (2d) 584.

Employee cannot recover where his negligence is sole proximate cause of injury.—Even though the defense that the employee was negligent is not available to a

non-assenting employer under the Workmen's Compensation Act, where the employee's negligence is not only contributory but is the sole proximate cause of injury such negligence is conclusive. *Lyle v. Bangor & Aroostook R. R. Co.*, 150 Me. 327, 110 A. (2d) 584.

Sec. 11. Compensation for total incapacity.—While the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to $\frac{2}{3}$ his average weekly wages, earnings or salary, but not more than \$30 nor less than \$15 a week; and in no case shall the period covered by such compensation be greater than 500 weeks from the date of the accident, nor the amount more than \$12,000. In the following cases it shall, for the purposes of this act, be conclusively presumed that the injury resulted in permanent total incapacity: the total and irrevocable loss of sight in both eyes, the loss of both hands at or above the wrist, the loss of both feet at or above the ankle, the loss of 1 hand and 1 foot, an injury to the spine resulting in permanent and complete paralysis of the arms or legs and an injury to the skull resulting in incurable imbecility or insanity. (R. S. c. 26, § 11. 1949, c. 380, § 2. 1953, c. 357, § 1. 1955, c. 387, § 1.)

Effect of amendment.—The 1955 amendment, effective November 30, 1955, changed the first sentence by substituting

"\$30" for "\$27" in line four, and by inserting "\$12,000" in place of "\$10,500" at the end of the sentence.

Sec. 12. Compensation for partial incapacity.—While the incapacity for work resulting from the injury is partial, the employer shall pay the injured employee a weekly compensation equal to $\frac{2}{3}$ the difference, due to said injury, between his average weekly wages, earnings or salary before the accident and the weekly wages, earnings or salary which he is able to earn thereafter, but not more than \$30 a week; and in no case shall the period covered by such compensation be greater than 300 weeks from the date of the accident. (R. S. c. 26, § 12. 1949, c. 380, § 3. 1953, c. 357, § 2. 1955, c. 387, § 2.)

Effect of amendment.—The 1955 amendment, effective November 30, 1955, substituted "\$30" for "\$27" in line six.

Sec. 15. Compensation for death of employee; how apportioned.—If death results from the injury, the employer shall pay the dependents of the employee, wholly dependent upon his earnings for support at the time of his accident a weekly payment equal to $\frac{2}{3}$ his average weekly wages, earnings or salary, but not more than \$30 nor less than \$15 a week, from the date of death for a period ending 300 weeks from the date of the accident, and in no case to exceed \$9,000. Provided, however, that if the dependent of the employee to whom compensation shall be payable upon his death is the widow of such employee, upon her death or remarriage compensation to her shall cease; and the compensation to which she would have been entitled thereafter but for such death or remarriage shall be paid to the child or children, if any, of the deceased employee, including adopted and stepchildren, under the age of 18 years, or over said age but physically or mentally incapacitated from earning, who are dependent upon the widow at the time of her death or remarriage. If the dependent is the widower, upon his death the remainder of the compensation which would otherwise have been payable to him shall be payable to the children above specified, if any, who at the time thereof are dependent upon him. In case there is more than 1 child thus dependent, the compensation shall be divided equally among them. Provided further, that except in the case of dependents who are physically or mentally incapacitated from earning, compensation payable to any dependent child under the age of 18 years shall cease upon such child's reaching the age of 18 years or upon marriage.

(1955, c. 387, § 3.)

Effect of amendment.—The 1955 amendment, effective November 30, 1955, substituted "\$30" for "\$27" in line five of the first sentence and "\$9,000" for "\$8,000"

at the end of the first sentence. As the second paragraph was not changed, it is not set out.

Sec. 29. Industrial accident commission; appointment; tenure; duties; salary; clerk; seal.

The chairman shall receive a salary of \$8,000 per year, and the other commissioners a salary of \$7,500 each per year. The commissioner of labor and industry, in addition to his salary as such, shall receive for his services as a member of the commission \$1,000 per year. The members of the commission shall also receive their actual, necessary, cash expenses while away from their office on official business of the commission.

(1955, c. 473, § 9.)

Effect of amendment.—The 1955 amendment increased the annual salary of the chairman from \$7,000 to \$8,000 and of the other commissioners from \$6,500 to \$7,500.

As only the third paragraph was changed by the amendment, the rest of the section is not set out.

Sec. 37. Hearing; decision.

And a finding of fact by the commission must stand, etc.

The findings of the industrial accident commission that the necessary elements of accident are not present, namely "unusual,

unexpected and sudden event," are final if supported by competent and credible evidence. *McPherson v. Presque Isle*, 150 Me. 129, 107 A. (2d) 422.

The Occupational Disease Law.

Sec. 69. Occupational diseases.

Column 1

Description of disease

13. Dermatitis (venenata).

16. Pulmonary and cardiac diseases, excluding common colds.

Column 2

Description of process

13. Any process involving the use of or direct contact with acids, alkalies, acids or oil, or with brick, cement, lime, concrete or mortar, or leather capable of causing dermatitis (venenata), but exclusive of soaps and cleaning materials.

16. Caused to an active member of an organized fire department while participating at fires, and developing within 6 months of such participation.

(1945, c. 338. 1951, c. 261, § 1. 1953, c. 361, § 1. 1955, cc. 295, 391.)

Effect of amendments.—The first 1955 amendment changed paragraph numbered "13" by inserting in the description of process the words "or leather." The second 1955 amendment, effective November

30, 1955, added paragraph 16 at the end of the section. As the rest of the section was not changed, only paragraphs 13 and 16 are set out.

Chapter 32.

Department of Agriculture.

Division of Administration

Section 2-A. Bounty on Porcupine.

Division of Animal Industry

Sections 74-80. Brucellosis (Bang's Disease).

Division of Inspection

Section 267-A. Sardine Industry Advisory Board.

DIVISION OF ADMINISTRATION.

The Department; Commissioner; Duties.

Sec. 1. Department; commissioner.—The state department of agriculture, as heretofore established and hereinafter in this chapter called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry. A commissioner of agriculture, hereinafter in this chapter called the "commissioner," shall be elected by the legislature by joint ballot of the senators and representatives in convention, and shall hold his office for the term of 4 years and until his successor is elected and qualified. He shall receive an annual salary of \$8,000. He shall also receive his actual expenses incurred in the performance of his official duties. He may employ such clerical labor as may be required, subject to the provisions of the personnel law and he may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of his duties, the same to be paid out of any money appropriated by the legislature for such purpose. The commissioner may, with the approval of the governor and council, appoint a deputy commissioner of agriculture, who shall be the chief of one of the department bureaus