

# MAINE STATE LEGISLATURE

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## CHAPTER 3

## EMPLOYER'S LIABILITY

Sec.

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**§ 141. Definition of employer's liability; rights of employee**

If personal injury is caused to an employee, who, at the time of the injury, is in the exercise of due care, by reason of:

**1. Defects in ways, works or machinery.** A defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from, or had not been discovered or remedied in consequence of, the negligence of the employer or of a person in his service who had been entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition;

**2. Negligence of employee in superintending capacity.** The negligence of a person in the service of the employer who was entrusted with and was exercising superintendence and whose sole or principal duty was that of superintendence, or in the absence of such superintendent, of a person acting as superintendent with the authority or consent of such employer;

**3. Negligence of employee in charge of railroad engines, etc.** The negligence of a person in the service of the employer who was in charge or control of a signal, switch, locomotive engine or train upon a railroad.

The employee or his legal representatives shall, subject to sections 142 to 149, have the same rights to compensation and of action against the employer as if he had not been an employee, nor in the service, nor engaged in the work of the employer.

A car which is in use by, or which is in possession of, a railroad corporation shall be considered as a part of the ways, works

or machinery of the corporation which uses or has it in possession, within the meaning of subsection 1, whether it is owned by such corporation or by some other company or person. One or more cars which are in motion, whether attached to an engine or not, shall constitute a train within the meaning of subsection 3, and whoever, as a part of his duty for the time being, physically controls or directs the movements of a signal, switch, locomotive engine or train shall be deemed to be a person in charge or control of a signal, switch, locomotive engine or train within the meaning of said subsection.

R.S.1954, c. 31, § 48.

**§ 142.    Actions for damages for death in addition to those for injury**

If the injury described in section 141 results in the death of the employee, and such death is not instantaneous or is preceded by conscious suffering, and if there is any person who would have been entitled to bring an action under section 143, the legal representatives of said employee may, in the action brought under section 141, recover damages for the death in addition to those for the injury.

R.S.1954, c. 31, § 49.

**§ 143.    Widow or next of kin, actions by**

If, as the result of the negligence of an employer himself, or of a person for whose negligence an employer is liable under section 141, an employee is instantly killed or dies without conscious suffering, his widow or, if he leaves no widow, his next of kin, who, at the time of his death, were dependent upon his wages for support, shall have a right of action for damages against the employer.

R.S.1954, c. 31, § 50.

**§ 144.    Measure of damages in event of death**

If, under either section 142 or 143, damages are awarded for the death, they shall be assessed with reference to the degree of culpability of the employer or of the person for whose negligence the employer is liable.

The amount of damages which may be awarded in an action under section 141 for a personal injury to an employee, in which no damages for his death are awarded under section 142, shall not exceed \$4,000.

The amount of damages which may be awarded in such action, if damages for his death are awarded under section 142, shall not exceed \$5,000 for both the injury and the death, and shall be apportioned by the jury between the legal representatives of the employee and the persons who would have been entitled, under section 143, to bring an action for his death if it had been instantaneous or without conscious suffering.

The amount of damages which may be awarded in an action brought under section 143 shall not be less than \$500 nor more than \$5,000.

R.S.1954, c. 31, § 51.

**§ 145. Notice of injury; requisites; sufficiency; limitation of actions**

No action for the recovery of damages for injury or death under sections 141 to 144 shall be maintained unless notice of the time, place and cause of the injury is given to the employer within 60 days and the action is commenced within one year after the accident which causes the injury or death. Such notice shall be in writing, signed by the person injured or by a person in his behalf. If from physical or mental incapacity it is impossible for the person injured to give the notice within the time provided in this section, he may give it within 10 days after such incapacity has been removed, and if he dies without having given the notice and without having been for 10 days at any time after his injury of sufficient capacity to give it, his executor or administrator may give such notice within 60 days after his appointment. A notice given under this section shall not be held invalid or insufficient solely by reason of an inaccuracy in stating the time, place or cause of the injury, if it is shown that there was no intention to mislead and that the employer was not in fact misled thereby.

If a notice given under this section is claimed by the employer to be insufficient for any reason, he shall so notify in writing the person giving it within 10 days, stating the insufficiency claimed to exist, and thereupon the person whose duty it is to give the notice may, within 30 days, give a new notice with the same effect as if originally given.

R.S.1954, c. 31, § 52.

**§ 146. Liability not barred by contracts with independent contractors**

If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work,

or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for injuries to the employees of such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery or plant, if they are the property of the employer or are furnished by him and if such defect arose, or had not been discovered or remedied, through the negligence of the employer or of some person entrusted by him with the duty of seeing that they were in proper condition.

R.S.1954, c. 31, § 53.

**§ 147. Employee's knowledge of defect or negligence**

An employee or his legal representatives shall not be entitled under sections 141 to 144 to any right of action for damages against his employer if such employee knew of the defect or negligence which caused the injury, and failed within a reasonable time to give, or cause to be given, information thereof to the employer or to some person superior to himself in the service of the employer who was entrusted with general superintendence.

R.S.1954, c. 31, § 54.

**§ 148. Scope of sections 141-147; effect of judgment or settlement**

Sections 141 to 147 shall not apply to injuries caused to domestic servants or farm laborers by fellow employees or to those engaged in cutting, hauling or driving logs. Nothing in said sections shall be construed to abridge any common law rights or remedies which the employee may have against his employer, but a judgment recovered under said sections or a settlement of any action commenced or claim made for death or injury, under the provisions thereof, shall be a bar to any claim made or action begun to recover for the same injury or the same death, under the common law or under any other statute.

R.S.1954, c. 31, § 55.

**§ 149. Contracts for exemption**

No person shall, by a special contract with his employees, exempt himself or another person from liability which he may be under to them, for injuries suffered by them in his employment and resulting from the negligence of the employer or such other person, or of a person in his employ.

R.S. 1954, c. 31, § 56.