

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 6
Titles 33 to 39



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 5

OCCUPATIONAL DISEASES

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§ 181. Short title

This chapter shall be known and may be referred to as "The Occupational Disease Law"; the phrase "this law" as used in the said chapter refers thereto.

R.S.1954, c. 31, § 57.

§ 182. Application

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of the employment, and resulting from an occupational disease as defined, shall be treated as the happening of a personal injury by accident arising out of and in the course of the employment, within the meaning of the Workmen's Compensation Act, and all the provisions of that Act shall apply to such occupational diseases. This law shall apply only to cases in which the last exposure to an occupational disease in an occupation subject to the hazards of such disease occurred in this State and subsequent to January 1, 1946.

R.S.1954, c. 31, § 58.

§ 183. Occupational disease defined

Whenever used in this law, the term "occupational disease" shall be construed to mean only a disease set forth in section 193 which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment and which arises out of and in the course of employment.

R.S.1954, c. 31, § 59.

§ 184. False reports

No compensation shall be payable for an occupational disease if the employee who was employed on January 1, 1946, or who, at the time of entering into the employment of the employer by whom the compensation would otherwise be payable, falsely represents himself in writing as not having previously been disabled, laid off or compensated in damages or otherwise, because of such disease.

R.S.1954, c. 31, § 60.

§ 185. Aggravation of occupational disease

Where an occupational disease is aggravated by any other disease or infirmity, not itself compensable, or the death or incapacity from any other cause, not itself compensable is aggravated, prolonged, accelerated or in anywise contributed to by an occupational disease, the compensation payable shall be reduced and limited to such proportion only of the compensation that would be payable if the occupational disease were the sole cause of the incapacity or death as such occupational disease, as a causative factor, bears to all the causes of such incapacity or death, such reduction in compensation to be effected by reducing the number of weekly or monthly payments or the amounts of such payments, as under the circumstances of the particular case may be for the best interest of the claimant or claimants.

R.S.1954, c. 31, § 61.

§ 186. Date from which compensation is computed; employer liable

The date when an employee becomes incapacitated by an occupational disease from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease shall be taken as the date of the injury equivalent to the

date of accident under the Workmen's Compensation Act. Where compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of such disease, and the insurance carrier, if any, on the risk when such employee was last so exposed under such employer, shall be liable therefor. The amount of the compensation shall be based upon the average wages of the employee when last so exposed under such employer, and notice of injury and claim for compensation shall be given and made to such employer. The only employer and insurance carrier liable shall be the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of 60 days or more, and the insurance carrier, if any, on the risk when the employee was last so exposed, under such employer.

R.S.1954, c. 31, § 62.

§ 187. Notice of incapacity; filing of claim

Sections 63 and 95 of the Workmen's Compensation Act with reference to giving notice, making claims and filing petitions shall apply to cases under this law, except that in cases under this law the date of incapacity as defined in section 186 shall be taken as equivalent to the date of accident in said sections 63 and 95, and the notice under section 63 shall include the employee's name and address, the nature of the occupational disease, the date of incapacity, the name of the employer in whose employment the employee was last injuriously exposed for a period of 60 days to the hazards of the disease and the date when employment with such employer ceased. After compensation payments for an occupational disease have been legally discontinued, claim for further compensation for such occupational disease not due to further exposure to an occupational hazard tending to cause such disease, shall be barred if not made within one year after the last previous payment.

R.S.1954, c. 31, § 63.

§ 188. Partial incapacity

Compensation shall be payable for partial incapacity due to occupational diseases as provided in section 55 of the Workmen's Compensation Act.

R.S.1954, c. 31, § 64.

§ 189. Compensation limits

Compensation for partial or total incapacity or death from occupational disease shall be payable only in the following manner and amounts: If such incapacity or death occurs during the calendar month of January, 1946, total compensation shall not exceed \$500. Thereafter the total compensation payable for such incapacity or death shall increase at the rate of \$50 each calendar month. Such progressive increase in limits shall continue until the limits fixed in the Workmen's Compensation Act are reached. Compensation shall not be payable for incapacity by reason of occupational diseases unless such incapacity results within one year after the last injurious exposure to such disease in the employment, and shall not be payable for death, unless death follows continuous disability from such disease, commencing within the period above limited, for which compensation is payable, and results within 7 years after such last exposure.

R.S.1954, c. 31, § 65.

§ 190. Examination of employees

An employer may request any of his employees, or any prospective employees, to be examined for the purpose of ascertaining if any of them are in any degree affected by an occupational disease or peculiarly susceptible thereto. Refusal to submit to such examination shall bar such employee or prospective employee from compensation or other benefits provided by this law resulting from exposure to the hazards of occupational disease subsequent to such refusal and while in the employ of such employer.

R.S.1954, c. 31, § 66.

§ 191. Waiver

Where an employee or prospective employee, though not actually incapacitated is found to be affected by an occupational disease, he may, subject to the approval of the Industrial Accident Commission, be permitted to waive or limit in writing his compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. A waiver or limitation so permitted shall remain effective for any trade, occupation, process or employment, notwithstanding any change or changes in his employment or employer until the commission otherwise orders. The Industrial Accident Commission shall make reasonable rules and regulations relative to the form, exe-

cution, filing or registration and public inspection of waivers or records thereof.

R.S.1954, c. 31, § 67.

§ 192. Impartial medical advice

On request of a party or on its own motion the commission may in occupational disease cases appoint one or more competent and impartial physicians, their reasonable fees and expenses to be fixed and paid by the commission. These appointees shall examine the employee and inspect the industrial conditions under which he has worked in order to determine the nature, extent and probable duration of his occupational disease, the likelihood of its origin in the industry and the date of incapacity. Section 65 of the Workmen's Compensation Act shall apply to the filing and subsequent proceedings on their report, and to examinations and treatments by the employer.

If claim is made for death from an occupational disease, an autopsy may be ordered by the commission under the supervision of such impartial appointees. All proceedings for or payments of compensation to any claimant refusing to permit such autopsy when ordered shall be and remain suspended upon and during the continuance of such refusal.

R.S.1954, c. 31, § 68.

§ 193. Occupational diseases compensable

When arising out of and in the course of employment, compensation shall be payable for disabilities sustained or death incurred by an employee resulting from the following occupational diseases:

Column 1	Column 2
Description of disease	Description of process
1. Anthrax.	1. Handling of wool, hair, bristles, hides or skins.
2. Lead poisoning or its sequelae.	2. Any process involving the use of or direct contact with lead or its preparations or compounds.
3. Mercury poisoning or its sequelae.	3. Any process involving the use of or direct contact with mercury or its preparations or compounds.

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| 4. Phosphorus poisoning or its sequelae. | 4. Any process involving the use of or direct contact with phosphorus or its preparations or compounds. |
| 5. Arsenic poisoning or its sequelae. | 5. Any process involving the use of or direct contact with arsenic or its preparations or compounds. |
| 6. Poisoning by benzol or nitro-, hydro-, hydroxy- and amido-derivatives of benzene (dinitrobenzol, anilin and others), or its sequelae. | 6. Any process involving the use of or direct contact with benzol or nitro-, hydro-, hydroxy- or amido-derivatives of benzene or its preparations or compounds. |
| 7. Poisoning by carbon bisulphide or its sequelae or any sulphide. | 7. Any process involving the use of or direct contact with carbon bisulphide or its preparations or compounds or any sulphide. |
| 8. Poisoning by nitrous fumes or its sequelae. | 8. Any process in which nitrous fumes are evolved. |
| 9. Poisoning by formaldehyde and its preparations. | 9. Any process involving the use of or direct contact with formaldehyde and its preparations. |
| 10. Chrome ulceration or its sequelae or chrome poisoning. | 10. Any process involving the use of or direct contact with chromic acid or bichromate of ammonium, potassium or sodium, or their preparations. |
| 11. Carbon monoxide poisoning. | 11. Any process involving direct exposure to carbon monoxide in building sheds or enclosed places. |
| 12. Poisoning by sulphuric, hydrochloric or hydrofluoric acid. | 12. Any process involving the use of or direct contact with sulphuric, hydrochloric or hydrofluoric acids or their fumes. |

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| 13. Dermatitis (venenata). | 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. |
| 14. Dermatitis or pyoderma. | 14. Any process resulting in inflammation of the true skin or sensitive layer beneath the epidermis from the processing of poultry. |
| 15. Silicosis or its sequelae. | 15. Any process involving direct exposure to silicon dioxide particles. |
| 16. Fluoride poisoning or its sequelae. | 16. Any process involving direct exposure to fluorides. |
| 17. Pulmonary and cardiac diseases, excluding common colds. | 17. Caused to an active member of an organized fire or police department while participating at fires, or by strenuous physical exertion in active duty, or by the inhalation of any deleterious emanation while on such active duty, and developing within 6 months of such participation or activity. |
| 18. Disability due to radioactive properties of substances or exposure to ionizing radiation. | 18. Any process involving the use of or direct contact with radiation or radioactive substances or the use of or direct exposure to Roentgen rays (X-rays) or ionizing radiation. |

R.S.1954, c. 31, § 69; 1955, c. 295; c. 391, § 1; 1959, cc. 262, 265; c. 287, § 1; 1961, c. 156.

§ 194. Silicosis

In the absence of conclusive evidence in favor of the claim, disability or death from silicosis shall be presumed not to be due to the nature of any occupation, unless during the 10 years immediately preceding the date of disability the employee has been exposed to the inhalation of silica dust over a period of not less than 5 years, 2 years of which shall have been in this State, under a contract of employment existing in this State. If the employee shall have been employed by the same employer during the whole of such 5-year period, his right to compensation against such employer shall not be affected by the fact that he had been employed during any part of such period outside of this State. No compensation shall be payable for partial incapacity due to silicosis. The compensation payable in any such case shall be limited to a period not to exceed the average life expectancy of a person of the age and sex of the deceased. In the event of disability from silicosis the employer shall provide reasonable medical treatment not to exceed \$1,000 in amount.

R.S.1954, c. 31, § 70.

§ 195. Disability due to radioactive properties

Notwithstanding any of the provisions of this chapter, the employee need not be exposed to radioactive substances for a period of 60 days or more, as otherwise stated under section 186, and the time for filing claims shall not begin to run in cases of incapacity under section 193, item 18, until the person claiming benefits knew, or by exercise of reasonable diligence should have known of the causal relationship between his employment and his incapacity, or after incapacity, whichever is later.

1959, c. 287, § 2.

§ 196. New occupational diseases retroactive

When any new occupational disease has been added to the list of compensable occupational diseases after January 1, 1946, the date the law making such addition first became effective shall be used in place of January 1, 1946, and said law, including sections 182, 184 and 189, shall apply thereto as of the date the law making such addition first became effective.

R.S.1954, c. 31, § 71.