

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 79

S. P. 37

Office of the Clerk of the House

Filed December 28, 1960 under Joint Rule 19A by Senator Marden of Kennebec. To be printed and delivered to the Senate of the 100th Legislature.

HARVEY R. PEASE, Clerk

Presented by Senator Marden of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

**AN ACT Relating to Second Injury Fund and Vocational Rehabilitation under
Workmen's Compensation Act.**

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

Sec. 1. R. S., c. 31, § 9, amended. Section 9 of chapter 31 of the Revised Statutes, as amended by chapter 289 of the public laws of 1959, is further amended by adding after the 2nd paragraph a new paragraph to read as follows:

'Whenever, because of the nature of such injury or the subsequent condition of the employee following such injury, it appears that vocational rehabilitation is necessary and desirable to restore the injured employee to gainful employment, the employee shall be entitled to reasonable and proper rehabilitation service for a period not exceeding 52 weeks, which period may be extended for a further period not to exceed another 52 weeks if such extended period is found to be necessary and proper by any member of the commission. Such vocational rehabilitation service shall be arranged in consultation with and be supervised by the Division of Vocational Rehabilitation, Department of Education, as provided in section 44.'

Sec. 2. R. S., c. 31, § 11, amended. The first sentence of section 11 of chapter 31 of the Revised Statutes, as last amended by section 1 of chapter 338 of the public laws of 1959, is further amended to read as follows:

'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 \$39 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 \$19,500

exclusive of the cost of rehabilitation and of sustenance and travel during said rehabilitation which in no case shall be more than \$3,000 in the first 52 weeks of said rehabilitation and if such a period is extended as provided in section 9, not more than \$2,000 in the second 52 weeks of said rehabilitation.'

Sec. 3. R. S., c. 31, § 11, amended. Section 11 of chapter 31 of the Revised Statutes, as last amended by section 1 of chapter 338 of the public laws of 1959, is further amended by adding a new paragraph to read as follows:

'Whenever a program of vocational rehabilitation has been inaugurated, either by approved agreement or commission decree, the employer shall pay the injured employee, in addition to compensation, if he is totally or partially incapacitated, a sum not to exceed \$20 per week for sustenance and travel as may be determined by the commission during the period of such rehabilitation within the limitations as prescribed in this section and section 9.'

Sec. 4. R. S., c. 31, § 12, amended. Section 12 of chapter 31 of the Revised Statutes, as last amended by section 2 of chapter 338 of the public laws of 1959, is further amended to read as follows:

'**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 \$39 a week; and in no case shall the period covered by such compensation be greater than 300 weeks from the date of the accident **except in cases where vocational rehabilitation services are being provided in which cases such period may be extended for a further period within the limitations prescribed in sections 9 and 11.**'

Sec. 5. R. S., c. 31, § 14, amended. The last paragraph of section 14 of chapter 31 of the Revised Statutes is amended to read as follows:

'In every case of the death of an employee under ~~the provisions of~~ this act where there is no person entitled to compensation, the employer shall pay to the Industrial Accident Commission the sum of ~~\$300~~ \$500, to be deposited with the Treasurer of State for the benefit of said fund, and the commission shall direct the distribution thereof.'

Sec. 6. R. S., c. 31, § 22, amended. The last paragraph of section 22 of chapter 31 of the Revised Statutes is amended to read as follows:

'If any employee refuses or neglects to submit himself to any reasonable examination provided for in this act, or in any way obstructs any such examination, or if he declines proper medical ~~or~~, surgical treatment **or vocational rehabilitation** offered by the employer, upon petition of said employer such employee's rights to compensation shall be suspended, and his compensation during such period of suspension shall be forfeited.'

Sec. 7. R. S., c. 31, § 32, amended. Section 32 of chapter 31 of the Revised Statutes is amended by adding a new paragraph to read as follows:

'If following an injury the employer and the employee reach an agreement in regard to vocational rehabilitation under this act, a memorandum of such agreement signed by the parties shall be filed in the office of the commission. If any member of the commission finds that such agreement as to vocational rehabilitation is in conformity with the act, he shall approve the same. In case he shall find that such agreement is not in conformity therewith and shall refuse to approve the same, or if the employer and the employee fail to reach an agreement in regard to vocational rehabilitation, either employee or employer may file in the office of the commission a petition for award of vocational rehabilitation, setting forth the names and residences of the parties, the facts relating to the employment at the time of the accident, the time, place, and cause of the accident, the character and extent of the injury, and need of vocational rehabilitation, and the claims of the petitioner with reference thereto; together with such other facts as may be necessary and proper for the determination of the rights of the petitioner relative to said claims.'

Sec. 8. R. S., c. 31, § 38, repealed and replaced. Section 38 of chapter 31 of the Revised Statutes is repealed and the following enacted in place thereof:

'Sec. 38. Petition for review of incapacity. While compensation is being paid or vocational rehabilitation is being provided under any agreement award or decree, the incapacity of the injured employee due to the injury, the need or progress of the vocational rehabilitation may from time to time be reviewed by a single commissioner upon the petition of either party upon the grounds that such incapacity has subsequently increased, diminished, or ended or that the need of the continuation of vocational rehabilitation has ended. Upon such review the commissioner may increase, diminish or discontinue such compensation or vocational rehabilitation in accordance with the facts, as the justice of the case may require. If after compensation or vocational rehabilitation has been discontinued, by decree or approved settlement receipt as provided by section 44, additional compensation or further vocational rehabilitation is claimed by an employee for further period of incapacity, he may file with the commission a petition for further compensation or vocational rehabilitation setting forth his claim therefor, hearing upon which shall be held by a single commissioner. The provisions of sections 34 to 37 as to procedure shall apply to the petitions authorized by this section and by section 22; and said provisions shall apply to the petitions authorized by sections 9, 13, 28 and 40, except that such petitions shall be heard by the commission.'

Sec. 9. R. S., c. 31, § 44, amended. Section 44 of the Revised Statutes is amended by adding after the first sentence the following sentences:

'If at anytime within the period of 6 months, but in any event at the end of a period of 6 months following the date of injury or the date of amputation of any member, or the date of loss of one or both eyes or the loss of hearing in one or both ears, the employee is still incapacitated, every such employer shall make a report thereof to the commission, on such form as the commission shall prescribe, giving full information as to the date and nature of the original injury and a description of the physical handicap resulting from such injury. Upon receipt of such notice from the employer, or upon any knowledge or notice received

prior to such notice, the commission shall forthwith refer such case to the Division of Vocational Rehabilitation of the Department of Education and shall thereafter cooperate and work with that division in the matter of rehabilitation of the injured employee.'

Sec. 10. **Effective date.** This act shall take effect on November 30, 1961.