

# MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

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Legislative Document

No. 296

H. P. 201

House of Representatives, January 12, 1961.

Referred to Committee on Labor. Sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Estey of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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AN ACT Relating to Workmen's Compensation Insurance

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

**Sec. 1. R. S., c. 31, § 2, sub-§ III, amended.** The first sentence of subsection III of section 2 of chapter 31 of the Revised Statutes is amended to read as follows:

“Assenting employer” shall include all private employers who have ~~complied with the provisions of section 6 and to whom a certificate authorized by said section has been issued, but only so long as such certificate remains in force~~ become assenting employers in accordance with section 6, and it shall include all towns voting to accept the provisions of the act.’

**Sec. 2. R. S., c. 31, § 2, sub-§ VI, amended.** Subsection VI of section 2 of chapter 31 of the Revised Statutes is amended to read as follows:

‘**VI. Insurance company.** “Insurance Company” shall mean any casualty insurance company or association authorized to do business in this State which may issue policies conforming to ~~the provisions of the preceding subsection V.~~ Whenever in this act relating to procedure the words “insurance company” are used they shall apply only to cases in which the employer has elected to ~~file such policy~~ secure the payment of compensation and other benefits by insuring such payment under an industrial accident insurance policy, instead of furnishing satisfactory proof of his ability to pay compensation and benefits ~~hereinafter provided~~ direct to his employees.’

**Sec. 3. R. S., c. 31, § 5, amended.** Section 5 of chapter 31 of the Revised Statutes is amended to read as follows:

**Sec. 5. Section 3 not applicable to assenting employers; such employers exempt from other actions.** ~~The provisions of section Section 3 shall also not apply to actions to recover damages for the injuries aforesaid, or for death resulting from such injuries, sustained by employees of an employer who has assented to become subject to the provisions of this act by securing the payment of compensation in conformity with section 6. If an employer at the time of so assenting is engaged in two or more independent businesses, he shall be held to come under the provisions of the act only as to the business or businesses specified in his assent. Assenting~~ Such assenting employers, except as hereinafter provided by section 7, shall be exempt from ~~suits~~ **civil actions** because of such injuries either at common law or under ~~the provisions of section 6 of chapter 165, sections 9, 10 and 11 or under the provisions of sections 48 to 55, inclusive, of this chapter, sections 48 to 55.~~

**Sec. 4. R. S., c. 31, § 6, sub-§ I, repealed and replaced.** Subsection I of section 6 of chapter 31 of the Revised Statutes is repealed and the following enacted in place thereof:

**I. Employer presumed to be assenting employer; liability of non-assenting employer.** Every private employer subject to this act, who has secured the payment of compensation in conformity with section 6, shall be conclusively presumed to be an assenting employer with respect to employees other than those engaged in domestic service or in agriculture, subject to the provisions hereinafter stated.

Any private employer other than those who employ 5 or less workmen or operators regularly in the same business who has elected not to be an assenting employer by not securing the payment of compensation under section 6 shall, in a civil action brought by the employee other than one engaged in domestic service or in agriculture to recover for personal injuries or death sustained after such election by the employer, arising out of and in the course of his employment shall not be entitled to the defenses set forth in section 3.

Any employer whose assent is thus presumed may cease to be an assenting employer effective upon the first day of any month, provided, said employer gives to the commission at its office in Augusta written notice in such form as the commission approves, not less than 60 days prior to the date on which said employer desires his election to cease to be an assenting employer to become effective, and provided that said employer shall post in conspicuous places in his several places of employment written or printed notices to the effect that on and after the first day of the month upon which such election shall become effective, said employer will not be subject to this act, which notices shall be posted at least 60 days prior to the date such election shall become effective and shall be kept continuously posted thereafter in sufficient places frequented by the employees of said employer to reasonably notify such employees of such election.

Any private employer who has thus elected not to be assenting employer may thereafter at any time become an assenting employer by filing with the commission at its office in Augusta his written notice in such form as the com-

mission approves withdrawing his election not to be an assenting employer and by securing the payment of compensation in conformity with section 6.'

Sec. 5. R. S., c. 31, § 6, sub-§ III, repealed and replaced. Subsection III of section 6 of chapter 31 of the Revised Statutes is repealed and replaced as follows:

'III. Assenting employer must insure or may become self-insurer by filing securities. Every assenting employer shall secure such compensation and other benefits to his employees in one or more of the following ways:

A. By insuring and keeping insured the payment of such compensation and other benefits under an industrial accident insurance policy. The insurance company shall file with the commission notice, in such form as the commission approves, of the issuance of any industrial accident policy to an assenting employer. Such insurance shall not be cancelled within the time limited in such policy for its expiration until at least 30 days after mailing to the commission and to the employer a notice of the cancellation of such insurance. In the event that the employer has obtained an industrial accident policy from another insurance company, or has otherwise secured compensation as provided in this subsection, and such insurance or other security becomes effective prior to the expiration of said 10 days, cancellation may, at the option of the insurance company indicated in such notice, be effective as of the effective date of such other insurance or security.

B. By furnishing satisfactory proof to the commission of his solvency and financial ability to pay the compensation and benefits, and deposit cash, satisfactory securities or a surety bond, in such sum as the commission may determine; such bond to run to the Treasurer of State and his successor in office, and to be conditional upon the faithful performance of this act relating to the payment of compensation and benefits to any injured employee. In case of cash being deposited it shall be placed at interest by the Treasurer of State, and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same. The commission may at any time in its discretion deny to an assenting employer the right to continue in the exercise of the option granted by this subsection.'

Sec. 6. R. S., c. 31, § 6, sub-§ IV, repealed and replaced. Subsection IV of section 6 of chapter 31 of the Revised Statutes is repealed and replaced as follows:

'IV. Voluntary election. Any private employer of 5 or less employees may become an assenting employer with respect to his employees and any private employer may become an assenting employer with respect to his employees engaged in domestic service or in agriculture, and the act of the employer in securing the payment of compensation to such employee or class of employees in conformity with this section shall constitute as to such employer his election to become an assenting employer without any further act on his part, but only with respect to that employee or that class of employees with respect to whom the employer has secured compensation as provided in this section provided, that, as to any employer who secures compensation by making a

contract of industrial accident insurance, such election shall be deemed to have been made on the effective date of the insurance policy. Such election to be an assenting employer shall be deemed to continue as long as compensation continues to be secured as provided.'

Sec. 7. R. S., c. 31, § 6, sub-§ VII, additional. Section 6 of chapter 31 of the Revised Statutes, is amended by adding a new subsection to be numbered VII, to read as follows :

'VII. Existing employer status preserved. An employer with a currently approved industrial accident policy, or a currently accepted self-insurer, within section 6 shall be considered in compliance with this act until the expiration or cancellation date of the current assent based thereon.'

Sec 8. Effective date. This act shall become effective on November 30, 1961.