

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1329

S. P. 477

In Senate, February 13, 1963

Referred to Committee on Labor. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Johnson of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Revising Certain Laws Under the Workmen's Compensation Law.

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

Sec. 1. R. S., c. 31, § 4, amended. Section 4 of chapter 31 of the Revised Statutes, as amended by chapter 343 of the public laws of 1957, is further amended to read as follows:

'Sec. 4. Section 3 not applicable to certain actions; seasonal or casual farm laborers; domestic service. The provisions of section 3 shall not apply to ~~employers who employ 5 or less workmen or operatives regularly in the same business. Said provisions shall not apply to~~ actions to recover damages for the injuries aforesaid, or for death resulting from such injuries, sustained by employees engaged in domestic service or ~~in agriculture~~ **by seasonal or casual farm laborers.** "Casual" is defined as occasional, irregular or incidental. "Seasonal" shall refer to employment beginning with the planting season and terminating at the completion of the harvest season.'

Sec. 2. R. S., c. 31, § 6, sub-§ I, amended. The first 2 paragraphs of subsection I of section 6 of chapter 31 of the Revised Statutes, as repealed and replaced by section 4 of chapter 178 of the public laws of 1961, are amended to read as follows:

'Every private employer subject to this act, who has secured the payment of compensation in conformity with **this 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 **as seasonal or casual farm laborers**, 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 ~~this~~ section 6 shall, in a civil action brought by the employee other than one engaged in domestic service or in agriculture as a seasonal or casual farm laborer 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.'

Sec. 3. R. S., c. 31, § 6, sub-§ IV, amended. Subsection IV of section 6 of chapter 31 of the Revised Statutes, as repealed and replaced by section 6 of chapter 178 of the public laws of 1961, is amended to read 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 as seasonal or casual farm laborers, 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. 4. R. S., c. 31, § 9, amended. The first paragraph of section 9 of chapter 31 of the Revised Statutes is amended to read as follows:

~~'During the first 30 days after~~ After an injury aforesaid the employee shall be entitled to reasonable and proper medical, surgical and hospital services, nursing, medicines and mechanical surgical aids when they are needed. ~~The amount of such services and aids shall not exceed \$100 unless a longer period or a greater sum is allowed by the commission, which in its discretion it may allow when the nature of the injury or the process of recovery requires it. The commission in its discretion may allow for such services and aids such sums as the nature of the injury or the process of recovery requires.'~~

Sec. 5. R. S., c. 31, § 11, amended. The first sentence of section 11 of chapter 31 of the Revised Statutes, as amended, 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 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 \$2,000 in the first 52 weeks

of said rehabilitation and if such a period is extended as provided in section 9, not more than \$500 in the second 52 weeks of said rehabilitation; **except that the period of 500 weeks shall be further extended, and the amount of \$19,500 shall be further increased, so long as the incapacity for work shall continue while the employee shall have dependent children including adopted or stepchildren. A child shall be conclusively presumed to be wholly dependent if under the age of 18 years, or over said age but physically or mentally incapacitated from earning, and dependent upon the employee.'**

Sec. 6. R. S., c. 31, § 15, amended. Section 15 of chapter 31 of the Revised Statutes, as amended, is further amended to read as follows:

'Sec. 15. Compensation for death of employee; now 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 \$39 nor less than \$15 a week, from the date of death for a period ending ~~300~~ 500 weeks from the date of the accident, and in no case to exceed ~~\$11,700~~ \$19,500; **except that the period of 500 weeks shall be further extended, and the amount of \$19,500 shall be further increased while such dependents are under the age of 18. Provided, however, that if** 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 one child thus dependent, the compensation shall be divided equally among them. ~~Provided further, that except~~ **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.

If the employee leaves dependents only partly dependent upon his earnings for support at the time of his accident, **except where partly dependent upon the widow or widower of the employee,** the employer shall pay such dependents for the said period of ~~300~~ 500 weeks, a weekly compensation equal to the same proportion of the weekly payments ~~herein~~ provided for the benefit of persons wholly dependent as the total amount contributed by the employee to such partial dependents for their support during the year prior to his accident bears to the earnings of the employee during said period.'