

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1214

H. P. 895

House of Representatives, February 11, 1965

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

JEROME G. PLANTE, Clerk

Presented by Mr. Ross of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

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., T. 39, § 4, amended. Section 4 of Title 39 of the Revised Statutes is amended to read as follows:

§ 4. Applicability to certain actions and employers; exemptions

Section 3 shall not apply to ~~employers who employ 5 or less workmen or operatives regularly in the same business. Said section 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 agricul-~~ ~~ture~~ 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. Section 3 shall 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 become subject to this Act by securing the payment of compensation in conformity with sections 21 to 27. Such assenting employers, except as provided by section 28, shall be exempt from civil actions because of such injuries either at common law or under sections 141 to 148 or under Title 18, sections 2551 to 2553.

Sec. 2. R. S., T. 39, § 21, amended. The first 2 paragraphs of section 21 of Title 39 of the Revised Statutes are amended to read as follows:

'Every private employer subject to this Act, who has secured the payment of compensation in conformity with sections 21 to 27 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 sections 21 to 27 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., T. 39, § 24, amended. Section 24 of Title 39 of the Revised Statutes is amended to read as follows:

§ 24. 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~~ **except those** 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 sections 21 to 27 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 sections 21 to 27, 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., T. 39, § 54, amended. The first paragraph of section 54 of Title 39 of the Revised Statutes is 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 \$42 nor less than \$18 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 \$21,000 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 52, 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 \$21,000 shall be further increased so long as the incapacity for work shall be total and continuous and uninterrupted from the date of the accident and in the conclusively presumed permanent total incapacity cases as follows:**

~~In the following cases it shall, for the purposes of this Act, be conclusively presumed that the injury resulted in permanent total incapacity: The total and irrevocable loss of sight in both eyes, the loss of both hands at or above~~

the wrist, the loss of both feet at or above the ankle, the loss of one hand and one foot, an injury to the spine resulting in permanent and complete paralysis of the arms or legs and an injury to the skull resulting in incurable imbecility or insanity.

This extension shall also apply in the foregoing cases to reasonable and proper medical, surgical and hospital services, nursing, medicines and mechanical, surgical aids as needed and to be paid for by the employer.'

Sec. 5. R. S., T. 39, § 58, amended. The first sentence of section 58 of Title 39 of the Revised Statutes is amended to read as follows:

'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 \$42 nor less than \$18 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 ~~\$12,000~~ \$21,000.'

Sec. 6. R. S., T. 39, § 58, amended. The last paragraph of section 58 of Title 39 of the Revised Statutes is amended to read as follows:

'If the employee leaves dependents only partly dependent upon his earnings for support at the time of his accident, 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 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.'

Sec. 7. R. S., T. 39, § 95, amended. Section 95 of Title 39 of the Revised Statutes is amended to read as follows:

'§ 95. Time for filing petitions

An employee's claim for compensation under this Act shall be barred unless an agreement or a petition as provided in section 94 shall be filed within ~~one year~~ 2 years after the date of the accident. Any time during which the employee is unable by reason of physical or mental incapacity to file said petition shall not be included in the period aforesaid. ~~If the employee fails to file said petition within said year because of mistake of fact as to the cause and nature of the injury, he may file said petition within a reasonable time not to exceed 2 years from the date of the accident.~~ In case of the death of the employee, there shall be allowed for filing said petition one year after such death. No petition of any kind may be filed more than 10 years following an accident, **except in those instances for which exception is made in section 147.'**

Sec. 8. Effective date. This Act shall become effective November 30, 1965.