

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION
(EMERGENCY)

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 1719

S. P. 681

In Senate, January 17, 1966

The Committee on Judiciary suggested.

EDWIN H. PERT, Secretary

Presented by Senator Harding of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-SIX

AN ACT Clarifying Certain Laws Under the Workmen's Compensation Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain provisions of the Workmen's Compensation Act are subject to varying interpretations; and

Whereas, the following legislation is vitally necessary to prevent confusion and hardship on both employers and employees; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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, as amended by section 1 of chapter 411 of the public laws of 1965, is amended to read as follows:

§ 4. Applicability to certain actions and employers; exemptions

Section 3 shall not apply to employers who employ 3 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 ~~by~~ **in agriculture** as seasonal or casual farm laborers. "Casual" as defined as occasional, irregular or incidental. "Seasonal" ~~shall refer~~ **refers** to farm laborers

engaged in agricultural employment beginning with at or after the commencement of the planting season and terminating at or before 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. This section shall not apply to farm laborers when the employer carries employees liability insurance coverages. Section 3 shall not apply to actions to recover damages for the injuries aforesaid, or for death resulting from such injuries sustained by the farm laborers of an employer who is covered by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000.'

Sec. 2. R. S., T. 39, § 21, amended. The 2nd paragraph of section 21 of Title 39 of the Revised Statutes, as amended by section 2 of chapter 411 of the public laws of 1965, is further amended to read as follows:

'Any private employer **other than those who employ 3 or less employees 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, as amended by section 3 of chapter 411 of the public laws of 1965, is further amended to read as follows:

§ 24. Voluntary election

Any private employer **of 3 or less employees** 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, § 52, amended. The first paragraph of section 52 of Title 39 of the Revised Statutes, as repealed and replaced by section 1 of chapter 408 of the public laws of 1965, is amended to read as follows:

'An employee ~~injured~~ **receiving a personal injury by accident arising** out of and in the course of his employment shall be entitled to reasonable and proper medical, surgical and hospital services, nursing, medicines, and mechanical, surgical aids, as needed, paid for by the employer. An injured employee shall have the right to make his own selection of a physician or surgeon authorized to practice as such under the laws of the State from a panel of physicians and surgeons selected by the Industrial Accident Commission, for the services set forth.'

Sec. 5. R. S., T. 39, § 54, amended. The first paragraph of section 54 of Title 39 of the Revised Statutes, as repealed and replaced by section 3 of chapter 408 of the public laws of 1965, 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 $\frac{2}{3}$ of the average weekly wage in the State of Maine as computed by the Employment Security Commission, **nor less than \$18 weekly**. 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 of 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 ~~and or legs~~ **and or** an injury to the skull resulting in incurable imbecility or insanity. In the event of such permanent total incapacity, the employer shall pay the employee a weekly compensation equal to $\frac{2}{3}$ his average weekly wage, earnings or salary but not more than $\frac{2}{3}$ of the average weekly wage in the State of Maine as computed by the Employment Security Commission, **nor less than \$18 weekly**. If the said totally ~~incapitated~~ **incapacitated** employee dies, leaving dependents who were dependent upon his earnings at the time of his accident, then payments shall be made to said dependents in accordance with the procedures established by section 58.'

Sec. 6. R. S., T. 39, § 56, amended. The first sentence of section 56 of Title 39 of the Revised Statutes, as repealed and replaced by section 5 of chapter 408 of the public laws of 1965, is amended to read as follows:

'In addition to the benefits provided for in sections 54 and 55, when an employee sustains an injury which is included in the following schedule, the incapacity in each case shall be deemed to be total for the period specified and the injured employee shall receive a lump sum payment for said injury which shall be determined by multiplying the ~~average weekly wage, as determined by section 2, subsection 2~~ **amount to which he would be entitled weekly for total incapacity as determined under section 54**, by the period of presumed total incapacity hereinafter set forth.'

Sec. 7. R. S., T. 39, § 58, amended. The first paragraph of section 58 of Title 39 of the Revised Statutes, as repealed and replaced by section 6 of chapter 408 of the public laws of 1965, is amended to read as follows:

'If death results from the injury, the employer shall pay the dependents of the employee, 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 $\frac{2}{3}$ of the average weekly wage in the State of Maine as computed by the Employment Security Commission, **nor less than \$18 weekly**, from the date of death, until such time as provided for in the following paragraph.'

Sec. 8. R. S., T. 39, § 95, amended. The last sentence of section 95 of Title 39 of the Revised Statutes, as repealed and replaced by section 9 of chapter 408 of the public laws of 1965, is repealed as follows:

~~'No petition of any kind may be filed more than 10 years following an accident.'~~

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.