

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
104th LEGISLATURE

HOUSE AMENDMENT "A" to H. P. 1235, L. D. 1567, Bill, "AN ACT Relating to Applicability of Workmen's Compensation Law to Employers of One or More Employees."

Amend said Bill by striking out everything after the enacting clause and inserting in place thereof the following:

Sec. 1. R. S., T. 39, §3, amended. The first paragraph of section 3 of Title 39 of the Revised Statutes is amended to read as follows:

In an action to recover damages for personal injuries sustained by an employee by accident arising out of and in the course of his employment, or for death resulting from such injuries, it shall not be a defense to an employer, except as hereinafter-specified otherwise provided by law:

Sec. 2. R. S., T. 39, §4, repealed and replaced. Section 4 of Title 39 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§4. Applicability to certain actions and employers; exemptions

Section 3 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 services or in agriculture as seasonal or casual farm laborers or as a lobster fisherman.

"Casual" is defined as occasional, irregular or incidental.

(Over)

(Filing No. H-510)

"Seasonal" refers to farm laborers and agricultural employment beginning 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 injuries aforesaid, or for death resulting from such injuries sustained by an employee of an employer who employs 3 or less workmen or operatives regularly in the same business or to such injuries or death sustained by a farm laborer if the negligence of the employer or the negligence of a person under the right of direction or control of the employer is not a cause of the injury or death of the employee or farm laborer if such employer of such persons is covered by an employers liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000.

Section 3 shall not apply to civil actions to recover damages for the injuries aforesaid or death resulting from such injuries sustained by an employee of an employer who has become subject to this Act by securing 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 and such death.

Sec. 3. R. S., T. 39, §21, amended. The 2nd paragraph of section 21 of Title 39 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

(Con't)

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Any private employer who has elected not to be an assenting employer by not securing the payment of compensation under sections 21 to 27 or any employer who employs 3 or less employees regularly in the same business who has not so elected by not securing payment of compensation under sections 21 to 27, or by not covering himself with an employers liability insurance policy as provided in section 4, shall, in a civil action brought by an employee other than one engaged in domestic service or in agriculture as a seasonal or casual farm laborer or as a lobster fisherman, to recover for personal injuries or death sustained after such election by the employer, arising out of and in the course of his employment, not be entitled to any extent to any of the defenses set forth in section 3.

Sec. 4. R. S., T. 39, §28, amended. The first sentence of section 28 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof:

An employee of an employer, who shall have assented to become subject to this Act as provided in sections 21 to 27 shall be held to have waived his right of civil action because of such injuries and such deaths if he shall not have given his employer at the time of his contract of hire, notice in writing that he claimed such right,

(Over)

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and within 10 days thereafter have filed a copy thereof with the commission; or, if the contract of hire was made before the employer so elected, if the employee within 10 days after knowledge by him of such assent shall not have given said notice and filed a copy thereof with the commission.

Sec. 5. R. S., T. 39, §28, amended. The last paragraph of of section 28 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof:

Any employee, or the parent or guardian of any minor employee, who has given such notice to the employer that he claimed his right of civil action because of such injuries and such deaths, may waive such claim by a subsequent notice in writing which shall take effect 5 days after the delivery thereof to the employer or his agent. Copy of such notice shall be sent forthwith by the employer to the commission.

Sec. 6. R. S., T. 39, c. 3, repealed. Chapter 3 of Title 39 of the Revised Statutes is repealed.

Filed by Mr. McTeague of Brunswick.

Reproduced and distributed under the direction of the Clerk of the House.

(Filing No. H-510)

6/10/69