

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-633)

COMMITTEE AMENDMENT " A " to H.P. 1453, L.D. 1741,
Bill, "AN ACT Concerning the Workmen's Compensation Act."

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

'Sec. 1. 39 MRSA §2, sub-§2, ¶A, first sentence, is
amended to read:

"Average weekly wages, earnings or salary" of an injured
employee shall be taken as the amount which he was receiving
at the time of the accident injury for the hours and days
constituting a regular full working week in the employment
or occupation in which he was engaged when injured, provided
such employment or occupation had continued on the part of
the employer for at least 200 full working days during the
year immediately preceding said accident injury.

Sec. 2. 39 MRSA §2, sub-§3 is repealed and the following
enacted in place thereof:

3. Commission; commissioner. "Commission" shall mean
the Industrial Accident Commission created by section 91.
The authority of the commission may be exercised by a single
commissioner. "Commissioner" shall mean any member of the
commission appointed under section 91 to hear and determine
cases. Rule-making powers, however, shall be exercised
only by a quorum of all members of the Industrial Accident
Commission.

Sec. 3. 39 MRSA §3, first sentence is amended to read:
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:

Sec. 4. 39 MRSA §23, sub-§2-A, ¶D, as enacted by PL 1973, c. 559, §2, is amended to read:

D. A description of the safety organization maintained by the employer or group for the prevention of ~~accidents~~ injuries;

Sec. 5. 39 MRSA §23, sub-§2-A, 2nd ¶, last sentence, is amended to read:
Security against shock or catastrophe loss shall be provided either by depositing securities in such amount as the chairman may determine, or by filing with the chairman an insurance carrier's certificate of a standard self-insurer's excess contract issued to the self-insurer or group in form approved by the chairman, providing reinsurance coverage against losses arising out of one ~~accident injury~~ injury in such amounts as the chairman may determine, or a combination of the foregoing, satisfactory to the chairman.

Sec. 6. 39 MRSA §51, as amended by PL 1967, c. 374, §1, is further amended to read:

§51. Entitlement to compensation and services generally

If an employee who has not given notice of his claim of common law or statutory rights of action, or who has

given such notice and has waived the same, as provided in section 28 receives a personal injury ~~by-accident~~ arising out of and in the course of his employment or is disabled by occupational disease, he shall be paid compensation and furnished medical and other services by the employer who shall have assented to become subject to this Act.

Sec. 7. 39 MRSA §56, next to last ¶, last sentence,
is amended to read:

A petition for determination of the percentage of permanent hearing impairment due to an injury shall be filed with the commission within 2 years from the date of the ~~accident~~ injury.

Sec. 8. 39 MRSA §58, 1st sentence, as last amended by PL 1973, c. 557, §4, is further amended to read:

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~~ injury, a weekly payment equal to 2/3 his average gross weekly wages, earnings or salary, but not more than the average weekly wage in the State of Maine as computed by the Employment Security Commission, nor less than \$25 weekly, from the date of death, until such time as provided for in the following paragraph.

Sec. 9. 39 MRSA §58, last paragraph, as repealed and replaced by PL 1965, c. 408, §6, is amended to read:

If the employee leaves dependents only partly dependent upon his earnings for support at the time of his ~~accident~~ injury, the employer shall pay such dependents a weekly

compensation equal to the same proportion of the weekly payments ~~herein~~ provided in this section for the benefit of persons dependent, as the total amount contributed by the employee to such partial dependents for their support during the year prior to his accident injury, bears to the earnings of the employee during said period.

Sec. 10. 39 MRSA §§64-B and 64-C, as enacted by PL 1975, c. 169, are amended to read:

§64-B. Cardiovascular injury or disease or pulmonary disease suffered by a fire fighter

If any person has been an active member of a municipal fire department or of a volunteer fire fighters' association, as defined in Title 30, section 3771, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and if said disease has developed or the injury has occurred within 6 months of having participated in fire fighting or training or drill which actually involves fire fighting, ~~it shall be presumed, unless the employer proves the contrary by a preponderance of the evidence,~~ there shall be a rebuttable presumption that the employee received the injury or contracted the disease arising out of and in the course of his employment, that sufficient notice of the injury or disease has been given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

§64-C. Cardiovascular injury or disease or pulmonary disease resulting in a firefighter's death

If any person had been an active member of a municipal fire department or of a volunteer fire fighters' association, as defined in Title 30, section 3771, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and provided that the person had developed the disease or had suffered the injury which resulted in death within 6 months of having ~~a cardiovascular disease or pulmonary disease which resulted in his death, and had~~ participated in fire fighting or training or drill which actually involves fire fighting, ~~it shall be presumed, unless his employer proves to the contrary by a preponderance of the evidence,~~ there shall be a rebuttable presumption that the person received the injury or disease arising out of and in the course of his employment, that sufficient notice of the injury or disease was given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

Sec. 11. 39 MRSA §183, as last amended by PL 1967, c. 374, §4, is further amended to read:

§183. Occupational disease defined

Whenever used in this law, the term "occupational disease" shall be construed to mean only a disease which is due to causes and conditions which are characteristic of ~~and peculiar~~ to a particular trade, occupation, process or employment and which arises out of and in the course of employment.

Sec. 12. 39 MRSA §194, 1st sentence, as last amended by PL 1967, c. 374, §7, is further amended to read: In the absence of evidence in favor of the claim, disability or death from silicosis shall be presumed not to be due to the nature of any occupation, unless during the ~~10~~ 15 years immediately preceding the date of disability the employee has been exposed to the inhalation of silica dust over a period of not less than 2 years.

Sec. 13. Effective date. Section 10 of this Act shall become effective 91 days after adjournment of the Legislature.'

Statement of Fact

The purposes of this amendment are to:

1. Strike all sections of L.D. 1741 except section 2.
2. Add new sections 1 and 3 to 9 to the L.D. These sections correct technical errors in the Workmen's Compensation Act and Occupational Disease Law.
3. Add new sections 10 and 13 to the L.D. These sections correct a technical error in PL 1975, c. 169 and accomplish 2 objectives consistent with the original intent of the bill. The term, "volunteer fire fighters' association" is clarified by the proper reference to its statutory definition and the 2 sections are reworded in order to utilize the same language, "rebuttable presumption," contained in the preceding section, §64-A, of the same statute.
4. Add new section 11 to broaden the meaning of the term "occupational disease."
5. Add new section 12 to provide for workmen's compensation coverage of silicosis, the same number of years during which a person may have been exposed as for asbestosis.

Reported by the Committee on Labor.

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

6/4/75

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