

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1741

H. P. 1453

House of Representatives, April 8, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Durham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Concerning the Workmen's Compensation Act.

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

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

In case such employment or occupation had not so continued for said 200 full working days, the "average weekly wages, earnings or salary" shall be determined by dividing the entire amount of wages or salary earned therein by the injured employee during said immediately preceding year, by the total number of weeks, ~~any part of~~ during which the employee worked at least 20 hours, during the same period.

Sec. 2. 39 MRSA § 2, sub-§ 3 is repealed and the following enacted in place thereof: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Sec. 3. 39 MRSA § 53, last sentence, as last repealed and replaced by PL 1965, c. 513, § 80, is amended to read:

In case incapacity continues for more than ~~7~~ 7 calendar days, compensation shall be allowed from the date of incapacity.

Sec. 4. 39 MRSA § 56, next to last ¶, first sentence, is amended to read:

In all other cases of injury to the above-mentioned members, eyes or hearing where the usefulness of any physical function thereof is permanently impaired, the specific ~~compensable periods for presumed total incapacity~~ amounts of compensation for loss of physical integrity on account thereof shall bear such relation to the periods above specified as the percentage of permanent impairment due to the injury to such members, eyes or hearing shall bear to the total loss thereof.

Sec. 5. 39 MRSA § 62 is repealed and the following enacted in place thereof:

§ 62. Compensation unaffected by savings or insurance

No savings, insurance or other rights of the injured employee independent of this Act shall be taken into consideration in determining the compensation to be paid, nor shall benefits derived from any source, other than free gifts from the employer, be considered in fixing the compensation due.

Sec. 6. 39 MRSA § 64-A, as last amended by PL 1973, c. 788, § 229, is repealed and the following enacted in place thereof:

§ 64-A. When employee killed or unable to testify

In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify, the burden of proof shall be on the employer to prove that the employee did not receive a personal injury arising out of and in the course of his employment, to prove that sufficient notice of the injury has been given, and to prove that the injury or death was not occasioned by the willful intention of the employee to seriously injure or kill himself or another.

STATEMENT OF FACT

The purpose of this Act is to amend the Workmen's Compensation Act by clarifying the definition of commissioner, shortening the required length of incapacity from 14 to 7 days, changing the basis of determining the award for injury to members, eyes or hearing, removing a change in compensation because of other rights the injured employee may be able to assert and clarify the burden of proof if the employee is unable to testify.