

MAINE STATE LEGISLATURE

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S. OF R.

L.D. 2199
(Filing No. S-572)

STATE OF MAINE
SENATE
108TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT " H" to S. P. 748, L.D. 2199, Bill,

"AN ACT to Make Additional Corrections of Errors and Inconsistencies
in the Laws of Maine."

Amend the Bill by inserting before the emergency clause
the following:

'Sec. 371. 17 MRSA §3964, last sentence, as amended by
PL 1973, c. 366, is repealed and the following enacted in its
place:

This section shall not apply to agreements entered into
pursuant to Title 39 and approved by the Workers' Compensation
Commission.

Sec. 37-A MRSA §72, first ¶, as last amended
by PL 1973, c. 728, §2, is repealed and the following enacted
in its place:

All members of the civil emergency preparedness forces
shall be deemed to be employees of the State when engaged in
training for or on civil emergency preparedness duty, and
shall have all the rights given to state employees under the
Workers' Compensation Act. All claims shall be filed and
prosecuted and determined in accordance with the procedure
set forth in the Workers' Compensation Act.

Sec. 370. 39 MRSA §1 is amended to read:

§1. Short title

This chapter shall be known, and may be cited and referred to in proceedings and agreements thereunder, as "The ~~Workmen's~~ Workers' Compensation Act;" the phrase "this Act," as used in said chapter, refers thereto.

Sec. 374. 39 MRSA §2, sub-§5, ¶A, sub-¶(3), last sentence, as repealed and replaced by PL 1975, c. 770, §215, is amended to read:

With respect to any such corporation that secures compensation by making a contract of ~~industrial-accident~~ workers' compensation insurance, specific inclusion of such executive officer in such contract shall cause such officer to be an employee of such corporation under this Act.

Sec. 375. 39 MRSA §2, sub-§5, ¶A, sub-¶(4), first ¶, as repealed and replaced by PL 1975, c. 770, §215, is amended to read:

(4) Any person who states in writing to the commission that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws, provided that the commission shall have found such person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which he is employed and that this waiver was not a prerequisite condition to employment.

Sec. 76. 39 MRSA §2, sub-§5, ¶A, sub-¶(4), last ¶, last sentence, ←→ as repealed and replaced by PL 1975, c. 770, §215, is amended to read:

The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws if the commissioner finds that ←→ the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation which employs the person who has made the first waiver.

Sec. 377. 39 MRSA §2, sub-§5, ¶A, sub-¶(5), as repealed and replaced by PL 1975, c. 770, §215, is amended to read:

(5) The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that he waives all the benefits and privileges provided by the ~~workmen's~~ workers' compensation laws if the commission finds that the waiver is not a prerequisite condition to employment.

Sec. 378. 39 MRSA §2, sub-§7, as amended by PL 1973, c. 585, §12, is further amended to read:

7. Workers' compensation insurance policy. ~~"Industrial-accident~~ "Workers' /compensation insurance policy" shall mean a policy in such form as the Insurance Superintendent approves, issued by any stock or mutual casualty insurance company or association that may now or hereafter be authorized to do business in this State,

which in substance and effect guarantees the payment of the compensation, medical benefits and expenses of burial provided for, in such installment, at such time or times, and to such person or persons and upon such conditions as in this Act provided. Whenever a copy of a policy is filed, such copy certified by the Insurance Superintendent shall be admissible as evidence in any legal proceeding wherein the original would be admissible.

Sec. 377. 39 MRSA §2, sub-§8, as last amended by PL 1975, c. 89, §1, is further amended to read:

8. Insurance company. "Insurance company" shall mean any casualty insurance company or association authorized to do business in this State which may issue policies conforming to subsection 7. Whenever in this Act relating to procedure the words "insurance company" are used they shall apply only to cases in which the employer has secured the payment of compensation and other benefits by insuring such payment under an industrial-accident workers' compensation insurance policy, instead of furnishing satisfactory proof of his ability to pay compensation and benefits direct to his employees.

No insurance carrier shall be qualified to issue an industrial-accident workers' compensation insurance policy covering any employees working in this State unless it has and continuously maintains an employee or claims agent within this State empowered to investigate claims arising under this chapter; sign agreements for the payment of compensation as provided by this chapter; and issue drafts or checks in payment of obligations arising under

this chapter in amounts of at least \$1,000.

Sec. 39 MRSA §22, as amended by PL 1973, c. 585, §12, is further amended to read:

§22. Approval of insurance policies and rates by Insurance Superintendent

Every insurance company issuing ~~industrial-accident workers' compensation~~ insurance policies covering the payment of compensation and benefits provided for in this Act shall file with the Insurance Superintendent a copy of the form of such policies and no such policy shall be issued until he has approved said form. It shall file its classification of risks and premium rates relating thereto, and any subsequent proposed classification thereof, none of which shall take effect until the Insurance Superintendent has approved the same as adequate for the risks to which they respectively apply. He may require the filing of specific rates for ~~workmen's~~ workers' compensation insurance including classifications of risks, experience or any other rating information from insurance companies authorized to transact such insurance in Maine, and may make or cause to be made such investigations as may be deemed necessary to satisfy himself that such rates are correct and proper before giving his approval and permitting such rates to be promulgated for the use of said companies. The Insurance Superintendent may at any time withdraw his approval of any classification of risks or premium rates relating thereto and approve a revised classification thereof.

Sec. 381. 39 MRSA §22-A, as enacted by PL 1973, c. 559,
§1, is amended to read:

§22-A. Prepayment of premium

No insurance company issuing industrial-accident workers' compensation insurance policies shall require prepayment of premium more than 1/4 year in advance.

Sec. 382. 39 MRSA §23, sub-§1, as amended by PL 1973,
c. 746, §6, is further amended to read:

1. Insuring under workers' compensation insurance policy.

By insuring and keeping insured the payment of such compensation and other benefits under an industrial-accident workers' compensation insurance policy. The insurance company shall file with the commission notice, in such form as the commission approves, of the issuance of any industrial-accident workers' compensation policy to an employer. Such insurance shall not be cancelled within the time limited in such policy for its expiration until at least 30 days after mailing to the commission and to the employer a notice of the cancellation of such insurance. In the event that the employer has obtained an industrial-accident workers' compensation policy from another insurance company, or has otherwise secured compensation as provided in this section, and such insurance or other security becomes effective prior to the expiration of said 30 days, cancellation shall be effective as of the effective date of such other insurance or receipt of security.

Sec. 383. 39 MRSA §23, sub-§2-A, next to last ¶, first sentence, as amended by PL 1977, c. 612, §3, is further amended to read:

If, upon examination of the sworn financial statement and other data submitted, the chairman is satisfied as to the ability of the employer or group to make current compensation payments and that the employer's or group's tangible assets make reasonably certain the payment of all obligations that may arise under the Workmen's Workers' Compensation Law, the application shall be granted subject to the terms and conditions setting out the exposure of cash deposits or securities or an acceptable surety bond, all as required by the Chairman of the Workers' Compensation Commission.

Sec. 384. 39 MRSA §23, sub-§4, ¶D, 3rd sentence, as enacted by PL 1973, c. 559, §3 is amended to read:

No officer, director, trustee or employee of the group self-insurer may represent or participate directly or indirectly on behalf of an injured worker of his dependents in any workmen's workers' compensation proceeding.

Sec. 385. 39 MRSA §23, sub-§4, ¶G, 1st sentence, as enacted by PL 1977, c. 437, §1 is amended to read:

If an employer is a partnership, or a sole proprietorship, and is a member of a self-insurance group associated pursuant to this section, such employer may elect to include as an "employee" any member of such partnership, or owner of such sole

proprietorship, for purposes of obtaining ~~workmen's~~ workers' compensation coverage under this Act.

Sec. 386. 39 MRSA §24, as last amended by PL 1973, c 746, §8, is further amended to read:

§24. Voluntary election

Any private employer, any of whose employees are exempt, may become subject to this Act with respect to his employees 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 subject to this Act 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 workers' compensation insurance, such election shall be deemed to have been made on the effective date of the insurance policy.

Sec. 387. 39 MRSA §27 is amended to read:

§27. Preservation of existing employer status

An employer with a currently approved industrial-accident workers' compensation policy, or a currently accepted self-insurer, within sections 21 to 27 shall be considered in compliance with this Act until the expiration or cancellation date of the current assent based thereon.

Sec. 388. 39 MRSA §52, sub-§3, is amended to read:

3. Determination of rights. The commission shall determine the rights and liabilities of the parties under this section in like manner and with like effect as it does other issues under the Workmen's Workers' Compensation Act.

Sec. 389. 39 MRSA §93, sub-§3, 3rd paragraph, as amended by PL 1977, c 612, §12, is further amended to read:

← Signed statements by a medical doctor or osteopathic physician relating to medical questions shall be admissible in workmen's workers' compensation hearings before the Workers' Compensation Commission, providing that notice of such testimony to be used is given and service of a copy of the letter or report is made on the opposing counsel 14 days before the scheduled hearing to enable such counsel to depose or subpoena and cross-examine such doctor or physician if he so chooses.

Sec. 390. 39 MRSA §100-A/^{1st sentence}, as enacted by PL 1977, c. 349, is amended to read:

The Industrial-Accident Workers' Compensation Commission may approve an agreement of the parties to a trial work period at a specified job for a period not to exceed 3 months.

Sec. 391. 39 MRSA §111-A, as enacted by PL 1977, c. 354 is amended to read:

§111-A. Provisional payment of certain disability benefits

1. No delay of benefits. If an employee is due benefits

from an employer under an insured disability plan or insured medical payments plan because of a personal injury or disease, the employer shall not delay or refuse payment of those benefits because the employee has filed a workmen's workers' compensation claim based on the same personal injury or disease.

2. Repayment. If an employee has received benefits, as described in subsection 1, because of a personal injury or disease and has later prevailed on a workmen's workers' compensation claim based on the same personal injury or disease, the value of all such benefits may be offset by the employer or respective insurance carriers against the payments of workmen's workers' compensation benefits, and, if not offset, the employee shall repay to the employer, within 30 days of receiving the initial payment of workmen's workers' compensation benefits, the value of all the benefits received under subsection 1.

Sec. 392. 39 MRSA §112, ~~last ¶~~, as enacted by PL 1973, c. 554, is amended to read:

This section shall not apply to agreements for the payment of compensation made pursuant to the Workmen's Workers' Compensation Act or to the admissibility of statements to show compliance with the notice requirements of sections 63 and 64.

Sec. 393. 39 MRSA §182, 1st sentence, as last amended by PL 1973, c. 788, §237, is further amended to read:

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of the employment, and resulting from an occupational disease, shall

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be treated as the happening of a personal injury arising out of and in the course of the employment, within the meaning of the Workmen's Workers' Compensation Act, and all the provisions of that Act shall apply to such occupational diseases.

Sec. 394. 39 MRSA §186, 1st sentence, as last amended by PL 1973, c. 788, §238, is further amended to read:

The date when an employee becomes incapacitated by an occupational disease from performing his work in the last occupation in which he was injuriously exposed to the hazards of such disease shall be taken as the date of the injury equivalent to the date of injury under the Workmen's Workers' Compensation Act.

Sec. 395. 39 MRSA §187, 1st sentence, as last amended by PL 1973, c. 788, §239, is further amended to read:

7 Sections 63 and 95 of the Workmen's Workers' Compensation Act with reference to giving notice, making claims and filing petitions shall apply to cases under this law, except that in cases under this law the date of incapacity as defined in section 186 shall be taken as equivalent to the date of injury in said sections 63 and 95, and the notice under section 63 shall include the employee's name and address, the nature of the occupational disease, the date of incapacity, the name of the employer in whose employment the employee was last injuriously exposed for a period of 60 days to the hazards of the disease and the date when employment with such employer ceased.

Sec. 396. 39 MRSA §188 is amended to read:

§188. Partial incapacity

Compensation shall be payable for partial incapacity due to occupational diseases as provided in section 55 of the Workmen's Workers' Compensation Act.

Sec. 397. 39 MRSA §191 is amended to read:

§191. Waiver

Where an employee or prospective employee, though not actually incapacitated is found to be affected by an occupational disease, he may, subject to the approval of the Industrial-Accident Workers' Compensation Commission, be permitted to waive or limit in writing his compensation for any aggravation of his condition that may result from his continuing in his hazardous occupation. A waiver or limitation so permitted shall remain effective for any trade, occupation, process or employment, notwithstanding any change or changes in his employment or employer until the commission otherwise orders. The Industrial-Accident Workers' Compensation Commission shall make reasonable rules and regulations relative to the form, execution, filing or registration and public inspection of waivers or records thereof.

Sec. 398. 39 MRSA §192, 1st paragraph, last sentence, is amended to read:

Section 65 of the Workmen's Workers' Compensation Act shall apply to the filing and subsequent proceedings on their report, and to examinations and treatments by the employer.'

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Statement of Fact

Earlier this session the name of the Industrial Accident Commission was changed to the Workers' Compensation Commission. The purpose of this amendment is to change other references to "workmen's compensation" and "industrial accident" contained in the Workermen's Compensation Act.

(S. Collins)
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County: Knox

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