

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-441)
110TH LEGISLATURE
FIRST REGULAR SESSION

L.D. 679

COMMITTEE AMENDMENT "A" to H.P. 602, L.D. 679, Bill,
"AN ACT to Assist Handicapped Workers in Returning to Employment."

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

'39 MRSA §66-A, as enacted by PL 1971, c. 417, is
repealed and the following enacted in its place:

§66-A. Transfer to suitable work

Where an employee has suffered a compensable injury
which disables him from performing his customary or most recent
work, his employer at the time of the injury shall transfer
him to a position which is suitable to his physical condition
where such position is available. The employer's obligation
to transfer the employee shall continue until one year after
the employee has reached the stage of maximum medical improve-
ment in the judgment of the commission.

Upon the request of an injured employee, the commission
shall, after making due inquiry, require that the employee
be transferred under this section.

The exercise of this authority shall not conflict with
any provision of a collective bargaining agreement between the
employer and a labor organization which is the collective
bargaining representative of the unit of which the injured
workman is a part, if that agreement grants the injured
employee greater rights than are provided in this section.

This section does not obligate an employer to offer employ-
ment or reemployment in supervisory or confidential positions
within the meaning of ^{the} United States Code, ^{Title 29,} Section 152, and

shall not obligate an employer to offer an injured employee employment or reemployment in a position for which he is not qualified.

The employer's failure to comply with an order of the commission under this section disqualifies the employer from exercising any right it may otherwise have to reduce or terminate the employee's benefits under this Act. The disqualification shall continue only as long as the employer fails to make an offer of suitable work which is available or until the employee accepts other employment.

If any injured employee refuses to accept an offer of suitable work, the employer or insurer may, in addition to exercising any other rights it may have, file a petition for a suspension of benefits. If, after hearing, the commission finds that the employee refused to accept the offer and the the position offered was suitable to his physical condition, it shall order the suspension of all benefits payable under this Act. The order suspending benefits shall remain in effect only as long as the employee fails to accept the offer of suitable work.

If the commission determines that the employee has refused to accept an offer of work suitable to his physical condition, all or a portion of the benefits paid between the time the offer was refused and the commission's determination shall be considered an overpayment. The amount of the overpayment shall be the difference between the employee's benefits for that period and the benefits, if any, he would have been entitled to receive if he had accepted the offer. The amount of the overpayment shall be recoverable by the employer or insurer by

making deductions from future benefit payments in such amounts as the commission may determine. If no benefits are payable, the employer or insurer may recover the amount of the overpayment by civil action.'

Statement of Fact

This amendment requires an employer to offer reemployment to an injured employee where a suitable position is available. It also places a reasonable time limitation on the employer's obligation to reemploy the injured employee. Under this amendment, the employer's obligation extends until one year after the stage of maximum medical improvement. The obligation may be enforced by a request of the employee to the commission.

The amendment also places a corresponding obligation on an employee to accept an offer of work which is suitable to his physical condition, subject to loss of benefits under this Act.

Appropriate sanctions are imposed on both employers and employees for failure to comply with the requirements of this Bill.

Reported by the Committee on Labor.
Reproduced and distributed under the direction of the Clerk of the House.

5/19/81

(Filing No. H-441)