

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 391

6
7 H.P. 332

House of Representatives, February 1, 1983

8 On Motion of Representative Beaulieu of Portland referred to the
9 Committee on Labor. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Beaulieu of Portland.

Cosponsors: Senator Dutremble of York, Senator Hayes of Penobscot
and Representative Tuttle of Sanford.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Insure an Employee is Notified
18 of his Rights to Workers' Compensation.
19

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

22 39 MRSA §95, as amended by PL 1979, c. 541, Pt.
23 A, §282, is further amended to read:

24 §95. Time for filing petitions

25 Any employee's claim for compensation under this
26 Act shall be barred unless an agreement or a petition
27 as provided in section 94 shall be filed within 2
28 years after the date of ~~the injury~~ the disability,
29 or, if the employee is paid by the employer or the
30 insurer, without the filing of any petition or agree-
31 ment, within 2 years of any payment by such employer
32 or insurer for benefits otherwise required by this
33 Act. The 2-year period in which an employee may file

1 his claim does not begin to run until his employer,
2 if he has actual knowledge of the injury and disabili-
3 ty, files a first report of injury as required by
4 section 106 of the Act. Any time during which the
5 employee is unable by reason of physical or mental
6 incapacity to file ~~said~~ the petition shall not be
7 included in the period provided in this section. If
8 the employee fails to file ~~said~~ the petition within
9 ~~said~~ that period because of mistake of fact as to the
10 cause and nature of the injury, he may file ~~said~~ the
11 petition within a reasonable time. In case of the
12 death of the employee, there shall be allowed for
13 filing said petition one year after ~~such~~ that death.
14 No petition of any kind may be filed more than 10
15 years following the date of the latest payment made
16 under this Act.

17

STATEMENT OF FACT

18 The purpose of this bill is to insure that all
19 employees are notified by the Worker's Compensation
20 Commission of their rights and obligations under the
21 Act, once they have notified their employer of their
22 injuries. Under current law, an employee may report
23 his injury to his employer. That employer thereafter
24 may fail to file a first report of this injury with
25 the Workers' Compensation Commission. This failure
26 means that the Workers' Compensation Commission does
27 not initiate a letter to the employee advising him of
28 his right to obtain counsel and his obligation to
29 file a petition to obtain compensation within 2 years
30 of the date of his injury or disability. Many
31 employers will advise their employees of their right,
32 but some have not. This has resulted in many meri-
33 torious claims being barred by the employer's own
34 inaction. The correction of this inequity is the
35 intent of this bill.

36 This inequity has proven a particular hardship on
37 employees who may be covered under state or federal
38 law, such as those engaged in the maritime industries
39 along Maine's coast. Many of these employees may be
40 covered by the provision of the United States Code,
41 Title 33, Section 901, et seq., the Longshoremen and
42 Harbor Workers' Compensation Act, as well as the
43 Workers' Compensation Act of Maine. If the employers

1 in those industries file first reports of injury only
2 with the United States Department of Labor, which ad-
3 ministers the Longshoremen's Act, the employee will
4 never be advised by the Workers' Compensation Commis-
5 sion of Maine of his concurrent right to file a peti-
6 tion for award instead under the Maine Workers' Com-
7 pensation Act, despite the fact that Maine's law may
8 be preferable to an employee to the federal law.
9 Because he is not advised of his rights by the com-
10 mission, the employee may never file such a petition
11 within 2 years of the date of his injury or disabili-
12 ty. This provision would also bring Maine law into
13 conformity with the United States Code, Title 33,
14 Section 930 (f) the Longshoremen's and Harbor Work-
15 ers' Compensation Act which provides:

16 "Where the employer or the carrier has been given
17 notice... of any injury or death of an employee
18 and fails, neglects, or refuses to file report
19 thereof as required...the (statute of) limita-
20 tions shall not begin to run against the claim of
21 the injured employee or his dependents entitled
22 to compensation, until such report shall have
23 been furnished as required..."

24 As humanitarian acts of legislation intended to
25 benefit injured employees, both the federal act and
26 the Maine Workers' Compensation Act should have
27 parallel provisions guaranteeing that an employee
28 will be advised of his rights. When the employee is
29 not advised of his rights as the direct consequence
30 of the employer's inaction, the employer should not
31 be allowed to benefit by that inaction.

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