

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1039

6
7 H.P. 799

House of Representatives, March 4, 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 Clark of Millinocket.

Cosponsors: Representative McHenry of Madawaska, Senator Hayes of
11 Penobscot and Senator Baldacci of Penobscot.

12 STATE OF MAINE
13

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

17 AN ACT Regarding Return to Work Under the
18 Workers' Compensation Law.
19

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

22 39 MRSA §66-A, as repealed and replaced by PL
23 1981, c. 474, §3, is amended to read:

24 §66-A. Transfer to suitable work

25 When an employee has suffered a compensable
26 injury which disables him from performing his custom-
27 ary or most recent work, his employer at the time of
28 the injury shall transfer him to a position which is
29 suitable to his physical condition when such position
30 is available. The employer's obligation to transfer
31 the employee shall continue until one year after the
32 employee has reached the stage of maximum medical
33 improvement in the judgment of the commission. The

1 employer's obligation to transfer the employee shall
2 continue for one year after the date of maximum medi-
3 cal improvement or 2 years after the date of injury,
4 whichever is earlier.

5 Upon the request of an injured employee, the com-
6 mission shall, after making the due inquiry, require
7 that the employee be transferred under this section.

8 The exercise of this authority shall not conflict
9 with any provisions of a collective bargaining agree-
10 ment between the employer and a labor organization
11 which is the collective bargaining representative of
12 the unit of which the injured workman is a part, ~~if~~
13 ~~that agreement grants the injured employee greater~~
14 ~~rights than are provided in this section.~~

15 This section does not obligate an employer to
16 offer employment or reemployment in supervisory or
17 confidential positions within the meaning of the
18 United States Code, Title 29, Section 152, and shall
19 not obligate an employer to offer an injured employee
20 employment or reemployment in a position for which he
21 is not qualified.

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

30 If any injured employee refuses to accept an
31 offer of suitable work, the employer or insurer may,
32 in addition to exercising any other rights it may
33 have, file a petition for a reduction of benefits.
34 If, after hearing, the commission finds that an
35 employee refused to accept the offer and the position
36 offered was suitable to his physical condition, it
37 shall order the reduction of all benefits payable
38 under sections 54 and 55. The reduction shall be in
39 an amount equal to the difference between the
40 employee's weekly benefit and the benefits he would
41 have been entitled to receive if he had accepted the
42 offer. The order reducing benefits shall remain in

1 effect only as long as the employee fails to accept
2 the offer of suitable work. The employee's obli-
3 gation to accept an offer of suitable work with the
4 employer will continue until one year after the date
5 of maximum medical improvement or 2 years from the
6 date of injury, whichever is earlier.

7 If the commission determines that the employee
8 has refused to accept an offer of work suitable to
9 his physical condition, all or a portion of the bene-
10 fits paid between the time the offer was refused and
11 the commission's determination shall be considered an
12 overpayment. The amount of the overpayment shall be
13 the difference between the employee's benefits for
14 that period and the benefits, if any, he would have
15 been entitled to receive if he had accepted the
16 offer. The amount of the overpayment shall be re-
17 coverable by the employer or insurer by making deduc-
18 tions from future benefit payments in such amounts as
19 the commission may determine. If no benefits are pay-
20 able, the employer or insurer may recover the amount
21 of the overpayment by civil action.

22 Employers under this section shall have an obli-
23 gation without prejudice or favor to make and appro-
24 priately modify jobs available to injured employees
25 when the employees wish those jobs to be available,
26 as well as when the employer wishes to offer those
27 jobs. Employers shall make information regarding
28 their policies under this section available to
29 employees and their bargaining representatives in
30 writing to the end that employers shall have an equal
31 obligation and equal incentives to make jobs avail-
32 able and appropriately modify jobs when employees
33 wish to return to work as when employers wish to
34 reduce compensation payments by offering return to
35 work.

36 STATEMENT OF FACT

37 The purpose of this bill is to set specific time
38 limits on an employer's obligation to offer reemploy-
39 ment to an injured worker and on an injured worker's
40 obligation to accept an offer of reemployment. The
41 limits proposed, to apply equally to both sides, are

1 one year from the date of maximum medical improve-
2 ment, but in no case more than 2 years from the date
3 of injury.

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