

MAINE STATE LEGISLATURE

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(After Deadline)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1369

S.P. 448

In Senate, March 29, 1983

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Shute of Waldo.

Cosponsor: Representative Kelly of Camden.

STATE OF MAINE

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

AN ACT to Remove Minimum Weekly Charge for
Handicapped Workers under the Workers'
Compensation Act.

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

Sec. 1. 39 MRSA §22, sub-§3, ¶C is enacted to read:

C. In the case of workers' compensation insurance rates for sheltered workshops, as that term is defined in Title 5, section 1816, subsection 11, paragraph A, subparagraph (2), rating organizations or insurers shall establish, in addition to the other requirements of this section, that the rates are fairly and accurately based on the actual average weekly wage rates of employees and not based upon assumptions, as to averages of wages earned.

1 Sec. 2. 39 MRSA §54, first ¶, as amended by PL
2 1981, c. 483, §1, is further amended to read:

3 While the incapacity for work resulting from the
4 injury is total, the employer shall pay the injured
5 employee a weekly compensation equal to 2/3 his aver-
6 age gross weekly wages, earnings or salary, but not
7 more than 166 2/3% of the average weekly wage in the
8 State as computed by the Employment Security Commis-
9 sion; nor less than \$25 weekly, except in the case of
10 a handicapped individual who works in a sheltered
11 workshop, as that term is defined in Title 5, section
12 1816, subsection 11, paragraph A, subparagraph (2),
13 in whose case compensation may be less than \$25 but
14 shall not be less than the actual average weekly
15 wages received by that individual; and such weekly
16 compensation shall be adjusted annually on July 1st
17 so that it continues to bear the same percentage
18 relationship to the average weekly wage in the State
19 as computed by the Employment Security Commission, as
20 it did at the time of the injury. In the following
21 cases it shall, for the purposes of this Act, be con-
22 clusively presumed that the injury resulted in perman-
23 ent total incapacity; the total and irrevocable loss
24 of sight of both eyes, the loss of both hands at or
25 above the wrist, the loss of both feet at or above
26 the ankle, the loss of one hand and one foot, an
27 injury to the spine resulting in permanent and com-
28 plete paralysis of the arms or legs or an injury to
29 the skull resulting in incurable imbecility or insan-
30 ity. In the event of such permanent total incapac-
31 ity, the employer shall pay the employee a weekly
32 compensation equal to 2/3 his average gross weekly
33 wage, earnings or salary, but not more than 166 2/3%
34 of the average weekly wage in the State as computed
35 by the Employment Security Commission; nor less than
36 \$25 weekly, except in the case of a handicapped indi-
37 vidual who works in a sheltered workshop, as that
38 term is defined in Title 5, section 1816, subsection
39 11, paragraph A, subparagraph (2), in whose case com-
40 pen- sation may be less than \$25 but shall not be less
41 than the actual average weekly wages received by that
42 individual; and such weekly compensation shall be ad-
43 justed annually on July 1st so that it continues to
44 bear the same percentage relationship to the average
45 weekly wage in the State as computed by the Employ-
46 ment Security Commission, as it did at the time of

1 the injury. If the totally incapacitated employee
2 dies, as a result of this injury, leaving dependents
3 who were dependent upon his earnings at the time of
4 his injury, then payments shall be made to the
5 dependents in accordance with the procedures estab-
6 lished by section 58.

7 Sec. 3. 39 MRSA §58, first ¶, as amended by PL
8 1981, c. 483, §3, is further amended to read:

9 If death results from the injury, the employer
10 shall pay the dependents of the employee, dependent
11 upon his earnings for support at the time of his
12 injury, a weekly payment equal to 2/3 his average
13 gross weekly wages, earnings or salary, but not more
14 than 166 2/3% of the average weekly wage in the State
15 as computed by the Employment Security Commission;
16 nor less than \$25 weekly, except in the case of a
17 handicapped individual who works in a sheltered work-
18 shop, as that term is defined in Title 5, section
19 1816, subsection 11, paragraph A, subparagraph (2),
20 in whose case compensation may be less than \$25 but
21 shall not be less than the actual average weekly
22 wages received; from the date of death, until such
23 time as provided for in the following paragraph. Such
24 weekly compensation shall be adjusted annually on
25 July 1st so that it continues to bear the same per-
26 centage relationship to the average weekly wage in
27 the State as computed by the Employment Security Com-
28 mission, as it did at the time of the injury.

29 STATEMENT OF FACT

30 The purpose of this bill is to reduce worker com-
31 pensation rates for sheltered workshops in Maine.
32 Sheltered workshops are institutions in which handi-
33 capped persons can find employment unlikely to be
34 available to them in the private sector.

35 Minimum workers compensation rates are based on
36 statutory minimums of compensation payable to injured
37 workers, regardless of the employee's level of earn-
38 ings. In the case of some handicapped employees of
39 sheltered workshops, this minimum compensation
40 exceeds by many times the earnings of those individu-
41 als. This situation results in unnecessarily high

1 premiums for sheltered workshops, institutions which
2 are largely supported by taxpayer dollars.

3 This bill eliminates the \$25 weekly minimum bene-
4 fit level for employees in sheltered workshops. The
5 bill further requires rating organizations and insur-
6 ers to set their rates based on actual average weekly
7 earnings of all individuals in a sheltered workshop
8 rather than making assumptions about earnings.

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