

MAINE STATE LEGISLATURE

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(After Deadline)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1429

H.P. 1083

House of Representatives, April 6, 1983

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

Referred to the Committee on Labor, sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Theriault of Fort Kent.

Cosponsors: Speaker Martin of Eagle Lake, Representative Beaulieu of Portland and Senator Violette of Aroostook.

STATE OF MAINE

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

**AN ACT to Establish a State Standard for
Funding Certain Workers under the Workers'
Compensation Commission.**

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

39 MRSa §2, sub-§2, ¶A, as amended by PL 1979, c. 367, is further amended to read:

A. "Average weekly wages, earnings or salary" of an injured employee shall be taken as the amount which he was receiving at the time of the injury for the hours and days constituting a regular full working week in the employment or occupation in which he was engaged when injured except that this shall not include any reasonable and customary allowance given to the employee by the employer for the purchase, maintenance or use of any chainsaws or skidders used in the employee's

1 occupation, provided such employment or occupa-
2 tion had continued on the part of the employer
3 for at least 200 full working days during the
4 year immediately preceding said that injury. For
5 purposes of this paragraph, a "reasonable and
6 customary allowance" is the allowance provided in
7 a contract between the employee and the employer,
8 or if not provided for by contract, an allowance
9 determined by the Department of Labor, Bureau of
10 Employment Security. Except that in the case of
11 piece workers and other employees whose wages
12 during said that year have generally varied from
13 week to week, such wages shall be averaged in ac-
14 cordance with the method provided under paragraph
15 B.

16 STATEMENT OF FACT

17 The 109th Legislature, by Public Law 1979, chap-
18 ter 367, clarified the definition of average weekly
19 wage in the Workers' Compensation Act to exclude
20 equipment allowance from the computation of the aver-
21 age weekly wage. Some employers and insurance car-
22 riers have attempted to abuse this legislation by
23 setting an unduly high or unreasonable amount,
24 thereby diminishing the "average weekly wage" and,
25 thus, the injured woodsman's weekly compensation ben-
26 efit. The purpose of this bill is to clarify the
27 original intent of the 109th Legislature and to alert
28 the Workers' Compensation Commission and the Supreme
29 Judicial Court of these attempted abuses.

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