

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 213

6  
7 H.P. 179

House of Representatives, January 29, 1985

8 Reference to the Committee on Labor suggested and ordered printed.

9 EDWIN H. PERT, Clerk

10 Presented by Representative McGowan of Canaan.

Cosponsored by Representative Gwadosky of Fairfield.

11  
12 STATE OF MAINE  
13

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

17 AN ACT Relating to Maximum Benefits under the  
18 Workers' Compensation Act.  
19

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

22 Sec. 1. 39 MRSA §54, as amended by PL 1983, c.  
23 479, §8, is further amended to read:

24 §54. Compensation for total incapacity

25 While the incapacity for work resulting from the  
26 injury is total, the employer shall pay the injured  
27 employee a weekly compensation equal to 2/3 his aver-  
28 age gross weekly wages, earnings or salary, but not  
29 more than ~~166 2/3%~~ 100% of the average weekly wage in  
30 the State as computed by the Employment Security Com-  
31 mission; nor less than \$25 weekly; and such weekly  
32 compensation shall be adjusted annually so that it  
33 continues to bear the same percentage relationship to  
34 the average weekly wage in the State as computed by  
35 the Employment Security Commission, as it did at the

1 time of the injury. In the following cases it shall,  
2 for the purposes of this Act, be conclusively pre-  
3 sumed that the injury resulted in permanent total in-  
4 capacity; the total and irrevocable loss of sight of  
5 both eyes, the loss of both hands at or above the  
6 wrist, the loss of both feet at or above the ankle,  
7 the loss of one hand and one foot, an injury to the  
8 spine resulting in permanent and complete paralysis  
9 of the arms or legs or an injury to the skull result-  
10 ing in incurable imbecility or insanity. In the event  
11 of such permanent total incapacity, the employer  
12 shall pay the employee a weekly compensation equal to  
13  $\frac{2}{3}$  his average gross weekly wage, earnings or sala-  
14 ry, but not more than ~~166 2/3%~~ 100% of the average  
15 weekly wage in the State as computed by the Employ-  
16 ment Security Commission; nor less than \$25 weekly;  
17 and such weekly compensation shall be adjusted annu-  
18 ally so that it continues to bear the same percentage  
19 relationship to the average weekly wage in the State  
20 as computed by the Employment Security Commission, as  
21 it did at the time of the injury. If the totally in-  
22 capacitated employee dies, as a result of this in-  
23 jury, leaving dependents who were dependent upon his  
24 earnings at the time of his injury, then payments  
25 shall be made to the dependents in accordance with  
26 the procedures established by section 58. The annual  
27 adjustment required by this section shall be made on  
28 the anniversary date of the injury, except that,  
29 where the injury occurred prior to July 1, 1983, or  
30 where the effect of the ~~166 2/3%~~ 100% maximum is to  
31 reduce the amount of compensation to which the claim-  
32 ant would otherwise be entitled, the adjustment shall  
33 be made annually on July 1st.

34 Sec. 2. 39 MRSA §55, as amended by PL 1983, c.  
35 479, §9, is further amended to read:

36 §55. Compensation for partial incapacity

37 While the incapacity for work resulting from the  
38 injury is partial, the employer shall pay the injured  
39 employee a weekly compensation equal to  $\frac{2}{3}$  the dif-  
40 ference, due to the injury, between his average gross  
41 weekly wages, earnings or salary before the injury  
42 and the weekly wages, earnings or salary which he is  
43 able to earn thereafter, but not more than ~~166 2/3%~~  
44 100% of the average weekly wage in the State as com-

1       puted by the Employment Security Commission; and such  
2       weekly compensation shall be adjusted annually so  
3       that it continues to bear the same percentage rela-  
4       tionship to the average weekly wage in the State as  
5       computed by the Employment Security Commission, as it  
6       did at the time of the injury. The annual adjustment  
7       required by this section shall be made on the anni-  
8       versary date of the injury, except that, where the  
9       injury occurred prior to July 1, 1983, or where the  
10      effect of the ~~166 2/3%~~ 100% maximum is to reduce the  
11      amount of compensation to which the claimant would  
12      otherwise be entitled, the adjustment shall be made  
13      annually on July 1st.

14           Sec. 3. 39 MRSA §58, first ¶, as amended by PL  
15      1983, c. 479, §10, is further amended to read:

16           If death results from the injury, the employer  
17      shall pay the dependents of the employee, dependent  
18      upon his earnings for support at the time of his in-  
19      jury, a weekly payment equal to 2/3 his average gross  
20      weekly wages, earnings or salary, but not more than  
21      ~~166 2/3%~~ 100% of the average weekly wage in the State  
22      as computed by the Employment Security Commission;  
23      nor less than \$25 weekly; from the date of death, un-  
24      til such time as provided for in the following para-  
25      graph. Such weekly compensation shall be adjusted an-  
26      nually so that it continues to bear the same percent-  
27      age relationship to the average weekly wage in the  
28      State as computed by the Employment Security Commis-  
29      sion, as it did at the time of the injury. The annu-  
30      al adjustment required by this section shall be made  
31      on the anniversary date of the injury, except that,  
32      where the injury occurred prior to July 1, 1983, or  
33      where the effect of the ~~166 2/3%~~ 100% maximum is to  
34      reduce the amount of compensation to which the claim-  
35      ant would otherwise be entitled, the adjustment shall  
36      be made annually on July 1st.

1

STATEMENT OF FACT

2           The purpose of this bill is to make the maximum  
3 weekly benefit in the State comparable to the maximum  
4 weekly benefit in other states.

5           In this State, a worker receives weekly benefits  
6 equal to  $2/3$  of his or her prior gross earning sub-  
7 ject to a maximum of  $166 \frac{2}{3}\%$  of the average weekly  
8 wage in the State. That equals approximately \$475.  
9 In most states, the maximum weekly benefit is 100% of  
10 the statewide average weekly wage or less. In fact,  
11 in only 5 states, including this State, does the max-  
12 imum exceed 100% of the average weekly wage.

13           This bill, by changing the maximum in the State,  
14 will contribute toward placing this State workers'  
15 compensation costs more in line with other states.

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