

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 949

6  
7 H.P. 666

House of Representatives, March 7, 1985

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 Stetson of Damariscotta.  
Cosponsored by Representative Ridley of Shapleigh.

11  
12 STATE OF MAINE  
13

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

17 AN ACT to Reform the Current Spendable  
18 Earnings Program within the Workers'  
19 Compensation Laws.  
20

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

23 Sec. 1. 39 MRSA §2, sub-§12 is enacted to read:

24 12. Spendable earnings. "Spendable earnings"  
25 means the employee's gross average weekly wages,  
26 earnings or salary reduced by an amount determined to  
27 reflect amounts which would be withheld from his  
28 wages, earnings or salary under federal and state in-  
29 come tax laws, and under the United States Internal  
30 Revenue Code of 1954, Chapter 21, subchapter IV, re-  
31 lating to social security taxes. In all cases, it is  
32 to be assumed that the amount withheld would be de-  
33 termined on the basis of the employee's anticipated  
34 tax liability for the taxable year in which the pay-  
35 ments are made without regard to any itemized deduc-  
36 tions, but taking into account the maximum number of  
37 personal exemption deductions allowable.

1           Sec. 2. 39 MRSA §54, first ¶, as amended by PL  
2 1983, c. 479, §8, 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 or 80% of  
7 his spendable earnings, whichever is less, but not  
8 more than ~~166 2/3%~~ 100% of the average weekly wage in  
9 the State as computed by the Employment Security Com-  
10 mission; nor less than \$25 weekly; and such weekly  
11 compensation shall be adjusted annually so that it  
12 continues to bear the same percentage relationship to  
13 the average weekly wage in the State as computed by  
14 the Employment Security Commission, as it did at the  
15 time of the injury. In the following cases it shall,  
16 for the purposes of this Act, be conclusively pre-  
17 sumed that the injury resulted in permanent total in-  
18 capacity; the total and irrevocable loss of sight of  
19 both eyes, the loss of both hands at or above the  
20 wrist, the loss of both feet at or above the ankle,  
21 the loss of one hand and one foot, an injury to the  
22 spine resulting in permanent and complete paralysis  
23 of the arms or legs or an injury to the skull result-  
24 ing in incurable imbecility or insanity. In the event  
25 of such permanent total incapacity, the employer  
26 shall pay the employee a weekly compensation equal to  
27 2/3 his average gross weekly wage, earnings or salary  
28 or 80% of his spendable earnings, whichever is less,  
29 but not more than ~~166 2/3%~~ 100% of the average weekly  
30 wage in the State as computed by the Employment Secu-  
31 rity Commission; nor less than \$25 weekly; and such  
32 weekly compensation shall be adjusted annually so  
33 that it continues to bear the same percentage rela-  
34 tionship to the average weekly wage in the State as  
35 computed by the Employment Security Commission, as it  
36 did at the time of the injury. If the totally inca-  
37 pacitated employee dies, as a result of this injury,  
38 leaving dependents who were dependent upon his earn-  
39 ings at the time of his injury, then payments shall  
40 be made to the dependents in accordance with the pro-  
41 cedures established by section 58. The annual ad-  
42 justment required by this section shall be made on  
43 the anniversary date of the injury, except that,  
44 where the injury occurred prior to July 1, 1983, or  
45 where the effect of the ~~166 2/3%~~ 100% maximum is to  
46 reduce the amount of compensation to which the claim-

1 ant would otherwise be entitled, the adjustment shall  
2 be made annually on July 1st.

3 Sec. 3. 39 MRSA §55, as amended by PL 1983, c.  
4 479, §9, is further amended to read:

5 §55. Compensation for partial incapacity

6 While the incapacity for work resulting from the  
7 injury is partial, the employer shall pay the injured  
8 employee a weekly compensation equal to ~~2/3~~ 80% of  
9 the difference, due to the injury, between his ~~aver-~~  
10 ~~age gross weekly wages, earnings or salary spendable~~  
11 ~~earnings~~ before the injury and ~~the weekly wages,~~  
12 ~~earnings or salary spendable earnings~~ which he is  
13 able to earn thereafter, but not more than ~~166 2/3%~~  
14 100% of the average weekly wage in the State as com-  
15 puted by the Employment Security Commission; and such  
16 weekly compensation shall be adjusted annually so  
17 that it continues to bear the same percentage rela-  
18 tionship to the average weekly wage in the State as  
19 computed by the Employment Security Commission, as it  
20 did at the time of the injury. The annual adjustment  
21 required by this section shall be made on the anni-  
22 versary date of the injury, except that, where the  
23 injury occurred prior to July 1, 1983, or where the  
24 effect of the ~~166 2/3%~~ 100% maximum is to reduce the  
25 amount of compensation to which the claimant would  
26 otherwise be entitled, the adjustment shall be made  
27 annually on July 1st.

28 Sec. 4. 39 MRSA §58, first ¶, as amended by PL  
29 1983, c. 479, §10, is further amended to read:

30 If death results from the injury, the employer  
31 shall pay the dependents of the employee, dependent  
32 upon his earnings for support at the time of his in-  
33 jury, a weekly payment equal to 2/3 his average gross  
34 weekly wages, earnings or salary or 80% of his  
35 spendable earnings, whichever is less, but not more  
36 than ~~166 2/3%~~ 100% of the average weekly wage in the  
37 State as computed by the Employment Security Commis-  
38 sion; nor less than \$25 weekly; from the date of  
39 death, until such time as provided for in the follow-  
40 ing paragraph. Such weekly compensation shall be ad-  
41 justed annually so that it continues to bear the same  
42 percentage relationship to the average weekly wage in

1 the State as computed by the Employment Security Com-  
2 mission, as it did at the time of the injury. The  
3 annual adjustment required by this section shall be  
4 made on the anniversary date of the injury, except  
5 that, where the injury occurred prior to July 1,  
6 1983, or where the effect of the ~~166 2/3%~~ 100% maxi-  
7 mum is to reduce the amount of compensation to which  
8 the claimant would otherwise be entitled, the adjust-  
9 ment shall be made annually on July 1st.

10 STATEMENT OF FACT

11 This bill is based on the laws of Iowa, Michigan  
12 and the District of Columbia which incorporate a  
13 spendable earnings program into the workers' compen-  
14 sation laws, whereby a recipient can receive compen-  
15 sation along the lines of his wages while working,  
16 earnings after taxes, as opposed to the current sys-  
17 tem of receiving benefits based solely on gross  
18 wages. The benefits paid to the injured employee  
19 would be the lower of either 2/3 of his average gross  
20 weekly pay or 80% of his earnings after taxes, except  
21 in the case of compensation for partial incapacity,  
22 which would be based on only the difference between  
23 his after-tax earnings before and after the injury.  
24 These provisions would require benefits to more accu-  
25 rately reflect the actual take-home pay of the em-  
26 ployee before he was injured. The bill also reduces  
27 the maximum benefit cut off to 100% of the average  
28 weekly wage in the State; this is the most common  
29 cut-off point applied by other states. Since the  
30 general savings clause of the Maine Revised Statutes,  
31 Title 1, section 302, will "save" any actions pending  
32 before the Workers' Compensation Commission, this  
33 bill will only affect compensation awarded for claims  
34 filed after the effective date of this bill; compen-  
35 sation for claims filed before that date would still  
36 be computed under present law.

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