

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1038

6
7 H.P. 729

House of Representatives, March 13, 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 Zirnkilton of Mount Desert.
Cosponsored by Representative Bonney of Falmouth.

11
12 STATE OF MAINE
13

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

17 AN ACT to Reduce the Workers' Compensation
18 Borders on Sheltered Workshops.
19

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

22 Sec. 1. 39 MRSA §22-C, sub-§6, ¶F is enacted to
23 read:

24 F. In the case of workers' compensation insur-
25 ance rates for sheltered workshops, as that term
26 is defined in Title 5, section 1816, subsection
27 11, paragraph A, subparagraph (2), a rate filing
28 may not be approved unless the superintendent
29 finds, in addition to the other requirements of
30 this section, that the rates are fairly and accu-
31 rately based on the actual average weekly wage
32 rates of employees and not based upon assump-
33 tions, as to averages of wages earned.

34 Sec. 2. 39 MRSA §54, first ¶, as amended by PL
35 1983, c. 479, §8, is further amended to read:

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

1 his injury, then payments shall be made to the dependen-
2 dents in accordance with the procedures established
3 by section 58.

4 Sec. 3. 39 MRSA §58, first ¶, as amended by PL
5 1983, c. 479, §10, is further amended to read:

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

26

STATEMENT OF FACT

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

32 Minimum workers' compensation rates are based on
33 statutory minimums of compensation payable to injured
34 workers, regardless of the employee's level of earn-
35 ings. In the case of some handicapped employees of
36 sheltered workshops, this minimum compensation ex-
37 ceeds by many times the earnings of those individu-
38 als. This situation results in unnecessarily high
39 premiums for sheltered workshops, institutions which
40 are largely supported by taxpayer dollars.

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

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