

# MAINE STATE LEGISLATURE

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L.D. 1634

(Filing No. S-243)

STATE OF MAINE  
SENATE  
112TH LEGISLATURE  
FIRST REGULAR SESSION

SENATE AMENDMENT "E" to H.P. 1127, L.D. 1634,  
Bill, "AN ACT to Improve the Workers' Compensation  
System and Reform the Rate-making Process."

Amend the Bill in section 17 by striking out all  
of that part designated "§54-A." and inserting in its  
place the following:

'§54-A. Compensation for total incapacity

While the incapacity for work resulting from the  
injury is total, the employer shall pay the injured  
employee a weekly compensation equal to 2/3 his aver-  
age gross weekly wages, earnings or salary, but not  
more than the maximum benefit under section 53-A, nor  
less than \$25 weekly. This weekly compensation shall  
be adjusted annually so that it continues to bear the  
same percentage relationship to the state average  
weekly wage, as computed by the Maine Unemployment  
Insurance Commission, as it did at the time of the  
injury, but in no case may the annual adjustment ex-  
ceed the lesser of 5% or the actual percentage in-  
crease in the state average weekly wage for the pre-  
vious year, except that the annual adjustment shall  
not be less than 2% under the increase in the cost of  
living as determined by the Consumer Price Index.

In the following cases it shall, for the purpose  
of this Act, be conclusively presumed that the injury  
resulted in permanent total incapacity; the total and  
irrevocable loss of sight of both eyes, the loss of  
both hands at or above the wrist, the loss of both  
feet at or above the ankle, the loss of one hand and  
one foot, an injury to the spine resulting in perma-  
nent and complete paralysis of the arms or legs or an  
injury to the skull resulting in incurable imbecility  
or insanity. In the event of permanent total incapac-

1 ity, the employer shall pay the employee a weekly  
2 compensation equal to 2/3 his average gross weekly  
3 wage, earnings or salary, but not more than the maxi-  
4 mum benefit under section 53-A, nor less than \$25  
5 weekly. This weekly compensation shall be adjusted  
6 annually so that it continues to bear the same per-  
7 centage relationship to the state average weekly  
8 wage, as computed by the Maine Unemployment Insurance  
9 Commission, as it did at the time of injury. If the  
10 totally incapacitated employee dies as a result of  
11 this injury, leaving dependents who were dependent  
12 upon his earnings at the time of his injury, then  
13 payments shall be made to the dependents in accord-  
14 ance with section 58-A.

15 The annual adjustment required by this section  
16 shall be made on the anniversary date of the injury,  
17 except that where the effect of the maximum under  
18 section 53-A is to reduce the amount of compensation  
19 to which the claimant would otherwise be entitled,  
20 the adjustment shall be made annually on July 1st.

21 1. Sheltered workshops. The \$25 weekly minimum  
22 compensation limitation under this section does not  
23 apply to a handicapped individual who is employed by  
24 a sheltered workshop, as that term is defined in Ti-  
25 tle 5, section 1816, subsection 11, paragraph A, sub-  
26 paragraph (2) and who claims compensation under this  
27 section.

28 Further amend the Bill in section 19 by striking  
29 out all of that part designated "55-A." and inserting  
30 in its place the following:

31 '§55-A. Compensation for partial incapacity

32 While the incapacity for work resulting from the  
33 injury is partial, the employer shall pay the injured  
34 employee a weekly compensation equal to 2/3 the dif-  
35 ference, due to the injury, between his average gross  
36 weekly wages, earnings or salary before the injury  
37 and the weekly wages, earnings or salary which he is

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1 able to earn after the injury, but not more than the  
2 maximum benefit under section 53-A. This weekly com-  
3 pen-sation shall be adjusted annually so that it con-  
4 tinues to bear the same percentage relationship to  
5 the state average weekly wage, as computed by the  
6 Maine Unemployment Insurance Commission, as it did at  
7 the time of the injury, but in no case may the annual  
8 adjustment exceed the lesser of 5% or the actual per-  
9 centage increase in the state average weekly wage for  
10 the previous year, except that the annual adjustment  
11 shall not be less than 2% under the increase in the  
12 cost of living as determined by the Consumer Price  
13 Index.

14 The annual adjustment required by this section  
15 shall be made on the anniversary date of the injury,  
16 except that where the effect of the maximum under  
17 section 53-A is to reduce the amount of compensation  
18 to which the claimant would otherwise be entitled,  
19 the adjustment shall be made annually on July 1st.'

20 Further amend the Bill in section 25 by striking  
21 out all of that part designated "§58-A." and insert-  
22 ing in its place the following:

23 '§58-A. Death benefit; apportionment

24 If death results from the injury, the employer  
25 shall pay the dependents of the employee, dependent  
26 upon his earnings for support at the time of his in-  
27 jury, a weekly payment equal to 2/3 his average gross  
28 weekly wages, earnings or salary, but not more than  
29 the maximum benefit under section 53-A, nor less than  
30 \$25 weekly, from the date of death, until the time  
31 provided for in subsection 2. This weekly compensa-  
32 tion shall be adjusted annually so that it continues  
33 to bear the same percentage relationship to the state  
34 average weekly wage, as computed by the Maine Unem-  
35 ployment Insurance Commission, as it did at the time  
36 of the injury, but in no case may the annual adjust-  
37 ment exceed the lesser of 5% or the actual percentage  
38 increase in the state average weekly wage for the

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1 previous year, except that the annual adjustment  
2 shall not be less than 2% under the increase in the  
3 cost of living as determined by the Consumer Price  
4 Index.

5 The annual adjustment required by this section  
6 shall be made on the anniversary date of the injury,  
7 except that where the effect of the maximum under  
8 section 53-A is to reduce the amount of compensation  
9 to which the claimant would otherwise be entitled,  
10 the adjustment shall be made annually on July 1st.

11 1. Sheltered workshops. The \$25 weekly minimum  
12 compensation limitation under this section does not  
13 apply to a handicapped individual who is employed by  
14 a sheltered workshop, as that term is defined in Ti-  
15 tle 5, section 1816, subsection 11, paragraph A, sub-  
16 paragraph (2) and who claims compensation under this  
17 section.

18 2. Determination of recipients. If the dependent  
19 of the employee to whom compensation will be payable  
20 upon his death is the widow of the employee, upon her  
21 death or at the time she becomes a dependent of an-  
22 other person, compensation to her shall cease and  
23 the compensation which would otherwise have been pay-  
24 able to her shall be paid to the child or children,  
25 if any, of the deceased employee, including adopted  
26 and stepchildren under the age of 18 years, or over  
27 that age but physically or mentally incapacitated  
28 from earning, who are dependent upon the widow at the  
29 time of her death or dependency. If the dependent is  
30 a widower, upon his death or at the time he becomes a  
31 dependent of another person, the remainder of the  
32 compensation which would otherwise have been payable  
33 to him shall be payable to the children specified in  
34 this subsection, if any, who are dependent upon him  
35 at the time of his death or dependency. If there is  
36 more than one dependent child, the compensation shall  
37 be divided equally among them. Except in the case of  
38 dependents who are physically or mentally incapaci-  
39 tated from earning, compensation payable to any de-

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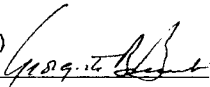
1 pendent child under the age of 18 years shall cease  
2 upon that child's reaching the age of 18 years or  
3 upon marriage.

4 3. Partial dependency. If the employee leaves  
5 dependents only partly dependent upon his earnings  
6 for support at the time of his injury, the employer  
7 shall pay those dependents a weekly compensation  
8 equal to the same proportion of the weekly payments  
9 provided in this section for the benefit of dependent  
10 persons, as the total amount contributed by the em-  
11 ployee to those partial dependents for their support  
12 during the year before his injury bears to the earn-  
13 ings of the employee during that period.'

14 STATEMENT OF FACT

15 The purpose of this amendment is to moderate and  
16 reduce the current annual adjustment, the so-called  
17 inflation protection currently provided for survivors  
18 of Maine workers who are killed on the job and Maine  
19 workers who suffer long-term disabilities because of  
20 work injuries. The bill limits the annual adjustment  
21 to 5% regardless of the level of inflation. This  
22 amendment limits annual adjustments to 5%, except  
23 where the rate of inflation as measured by the Con-  
24 sumer Price Index exceeds 7%, in which case the annu-  
25 al adjustment would be 2% less than the increase in  
26 the cost of living.

27 4220060685

28 (Sen. Berube)  
29 SPONSORED BY: 

30 COUNTY: Androscoggin

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