

MAINE STATE LEGISLATURE

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5.
D. OF R.

1

L.D. 1634

2

(Filing No. S- 248)

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STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

FIRST REGULAR SESSION

7

SENATE AMENDMENT "G " to H.P. 1127, L.D. 1634,

8

Bill, "AN ACT to Improve the Workers' Compensation

9

System and Reform the Rate-making Process."

10

Amend the Bill by striking out all of section 17

11

and inserting in its place:

12

'Sec. 17 39 MRSA §54-A is enacted to read

13

§54-A. Compensation for total incapacity

14

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.

25

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 such permanent total
incapacity, the employer shall pay the employee a
weekly compensation equal to 2/3 his average gross
weekly wage, earnings or salary, but not more than

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1 the maximum benefit under section 53-A, nor less than
2 \$25 weekly. This weekly compensation shall be ad-
3 justed annually so that it continues to bear the same
4 percentage relationship to the state average weekly
5 wage, as computed by the Maine Unemployment Insurance
6 Commission, as it did at the time of the injury. If
7 the totally incapacitated employee dies as a result
8 of this injury, leaving dependents who were dependent
9 upon his earnings at the time of his injury, payments
10 shall be made to the dependents in accordance with
11 section 58-A.

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

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

25 Further amend the Bill by striking out all of
26 section 19 and inserting in its place the following:

27 'Sec. 19. 39 MRSA §55-A is enacted to read:

28 §55-A. Compensation for partial incapacity

29 While the incapacity for work resulting from the
30 injury is partial, the employer shall pay the injured
31 employee a weekly compensation equal to $\frac{2}{3}$ the dif-
32 ference, due to the injury, between his average gross
33 weekly wages, earnings or salary before the injury
34 and the weekly wages, earnings or salary which he is
35 able to earn after the injury, but not more than the
36 maximum benefit under section 53-A. This weekly com-

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1 compensation shall be adjusted annually so that it con-
2 tinues to bear the same percentage relationship to
3 the state average weekly wage, as computed by the
4 Maine Unemployment Insurance Commission, as it did at
5 the time of the injury. The annual adjustment re-
6 quired by this section shall be made on the anniver-
7 sary date of the injury, except that, when the effect
8 of the maximum under section 53-A is to reduce the
9 amount of compensation to which the claimant would
10 otherwise be entitled, the adjustment shall be made
11 annually on July 1st.'

12 Further amend the Bill in section 25 in that part
13 designated "58-A." by striking out all of the first
14 paragraph (pages 25, lines 34 to 37 and page 26,
15 lines 1 to 17 in L.D.) and inserting in its place the
16 following:

17 'If death results from the injury, the employer
18 shall pay the dependents of the employee, dependent
19 upon his earnings for support at the time of his in-
20 jury, a weekly payment equal to 2/3 his average gross
21 weekly wages, earnings or salary, but not more than
22 the maximum benefit under section 53-A, nor less than
23 \$25 weekly from the date of the death until the time
24 provided for in subsection 2. This weekly compensa-
25 tion shall be adjusted annually so that it continues
26 to bear the same percentage relationship to the state
27 average weekly wage, as computed by the Maine Unem-
28 ployment Insurance Commission, as it did at the time
29 of the injury. The annual adjustment required by
30 this section shall be made on the anniversary date of
31 the injury, except that, when the effect of the maxi-
32 mum under section 53-A is to reduce the amount of
33 compensation to which the claimant would otherwise be
34 entitled, the adjustment shall be made annually on
35 July 1st.'

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STATEMENT OF FACT

2 The purpose of this amendment is to retain
3 Maine's law that compensation of disabled workers and
4 the survivors of deceased workers in earnings is ad-
5 justed annually on the same percentage basis as the
6 increases and decreases to Maine's active working
7 force. This law has been in effect in Maine since
8 1972 and, although it is generally termed an "infla-
9 tion protection" law, it is not tied to the Federal
10 Consumer Price Index, but rather to the average week-
11 ly wage in the State. If the 5% cap on the annual
12 adjustments suggested by the bill had been in effect
13 from 1975 to the present, disabled Maine workers and
14 the survivors of Maine workers killed on the job
15 would be receiving approximately 20% less in bene-
16 fits.

17 The 5% cap on inflation protection is similar,
18 but much more drastic than that proposed in Federal
19 Social Security benefits. Insurance carriers are
20 able to pay annual adjustments because they invest
21 the reserves set aside to pay long-term claims. When
22 inflation rates and wage rates go up, interest rates
23 also go up. For example, at the present time, infla-
24 tion rates and wage increases are increasing at an
25 annual rate of 4% to 5%, yet conservative invest-
26 ments, such as government bonds, are paying in the
27 range of 11% and other investments are paying 13% and
28 14%. The proposed 5% "cap" on annual inflation ad-
29 justments simply will mean that the insurance carrier
30 will gain from high inflation and the disabled worker
31 will be injured by it. The injured worker will be
32 protected to some extent when inflation is small, be-
33 low 5%, but when inflation is high the value of his
34 benefits will quickly be eaten away.

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(Sen. Berube)

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NAME:

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COUNTY Androscoggin

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