

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (After Deadline)
3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND TWELFTH LEGISLATURE
6

7 Legislative Document

No. 1656

8
9 S.P. 642

In Senate, June 18, 1985

10 Approved for introduction by a majority of the Legislative Council
11 pursuant to Joint Rule 27.

12 Under suspension of the rules, read twice and passed to be engrossed
without reference to committee, sent down for concurrence. Ordered sent
forthwith.

JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator Dutremble of York.

13 Cosponsored by Senator Carpenter of Aroostook, Representative Willey
of Hampden and Representative Beaulieu of Portland.

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-FIVE
18

19 AN ACT to Correct an Error and an Omission in
20 the Workers' Compensation Law.
21

22 Emergency preamble. Whereas, Acts of the Legis-
23 lature do not become effective until 90 days after
24 adjournment unless enacted as emergencies; and

25 Whereas, certain technical errors and
26 inconsistencies exist in the workers' compensation
27 law; and

28 Whereas, these errors and inconsistencies create
29 uncertainties and confusion in interpreting legisla-
30 tive intent; and

31 Whereas, it is vitally necessary that these un-
32 certainties and this confusion be resolved in order
33 to prevent any injustice or hardship to the citizens
34 of Maine; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

7 Be it enacted by the People of the State of Maine as
8 follows:

9 Sec. 1. 24-A MRSA §2357, as enacted by PL 1985,
10 c. 372, Pt. B, §5, is amended to read:

11 §2357. Nonseverability

12 In the event that any portion of this subchapter,
13 except section 2355, subsections 2 and 6, is held
14 invalid, it is the intent of the Legislature that
15 this entire subchapter, except section 2355 and this
16 section, is invalidated and the provisions of Title
17 39, section 22-C, subsection 13 and section 22-D are
18 also invalidated. In the event that section 2355,
19 subsection 2 is held invalid, it is the intent of the
20 Legislature that this entire subchapter and the pro-
21 visions of Title 39, section 22, subsection 13, sec-
22 tions 22-D, 53-A, 54-A, 55-A, 58-A and 62-B; section
23 94-A, subsection 3; section 110, subsection 2, and
24 section 112-A are also invalidated, provided that the
25 effective date of the invalidation of sections 53-A,
26 54-A, 55-A, 58-A and 62-B; section 94-A, subsection
27 3; section 110, subsection 2; and section 112-A shall
28 be 60 days after the date of a court decision effec-
29 tively invalidating section 2355 if the Legislature
30 is in regular session on the date of that court deci-
31 sion, or, if the Legislature is not in regular ses-
32 sion on that date, 60 days after the date of the con-
33 vening of the next regular session.

34 Sec. 2. 39 MRSA §110, sub-§2, as repealed and
35 replaced by PL 1985, c. 372, Pt. A, §43, is amended
36 to read:

37 2. Injuries on or after effective date of sec-
38 tion. If an employee prevails in any proceeding in-
39 volving a controversy under this Act, the commission
40 or commissioner may assess the employer costs of a

1 reasonable attorney's fee and witness fees whenever
2 the witness was necessary for the proper and expedi-
3 tious disposition of the case.

4 The employer may not be assessed costs of an attor-
5 ney's fee attributable to services rendered prior to
6 one week after the informal conference under section
7 94-B or, if the informal conference is waived, ser-
8 vices rendered prior to the date of that waiver, un-
9 less a party adverse to the employee was so repre-
10 sented at that stage.

11 No attorney representing an employee who prevails in
12 a proceeding involving a controversy under this Act
13 may receive any fee from that client for an appear-
14 ance before the commission, including preparation for
15 that appearance, except as provided in section 83,
16 subsection 7 and section 94-B, subsection 3. Any at-
17 torney who violates this paragraph shall lose his fee
18 and be liable in a court suit to pay damages to his
19 client equal to 2 times the fee charged for that cli-
20 ent.

21 This subsection applies only to employees injured on
22 and after the effective date of this subsection.

23 A. For the purposes of this subsection, "pre-
24 vail" means to obtain or retain more compensation
25 or benefits under the Act than were offered to
26 the employee by the employer in writing before
27 the proceeding was instituted. If no such offer
28 was made, "prevail" means to obtain or retain
29 compensation or benefits under the Act.

30 B. Any employee, employer or insurance carrier
31 involved in any proceeding involving a controver-
32 sy under this Act shall report to the commission,
33 on forms provided by the commission, any amounts
34 that he has paid for legal assistance in that
35 proceeding, including any amount paid for an
36 employee's legal fees under this subsection.

37 Emergency clause. In view of the emergency cited
38 in the preamble, this Act shall take effect when ap-
39 proved.

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STATEMENT OF FACT

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This bill makes technical corrections to the
workers' compensation law.

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