

# MAINE STATE LEGISLATURE

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(Emergency)  
SECOND SPECIAL SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1932

S.P. 710

In Senate, November 20, 1987

Reference to the Committee on Labor suggested and ordered printed.

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

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Make Technical Corrections in the  
2 Workers' Compensation Act.  
3

4 Emergency preamble. Whereas, Acts of the Legis-  
5 lature do not become effective until 90 days after ad-  
6 journment unless enacted as emergencies; and

7 Whereas, technical changes are necessary to Pub-  
8 lic Law 1987, chapter 559 which need to be enacted as  
9 emergencies to accomplish the intent of the Legisla-  
10 ture; and

11 Whereas, in the judgment of the Legislature,  
12 these facts create an emergency within the meaning of  
13 the Constitution of Maine and require the following  
14 legislation as immediately necessary for the preser-

1 vation of the public peace, health and safety; now,  
2 therefore,

3 Be it enacted by the People of the State of Maine as  
4 follows:

5 **Sec. 1. 5 MRSA §17906, sub-§2, ¶¶A and D, as en-**  
6 **acted by PL 1985, c. 801, §§5 and 7, are amended to**  
7 **read:**

8 A. The amount of any disability retirement bene-  
9 fit payable under this article shall be reduced  
10 by any amount received by the beneficiary for the  
11 same disability under either or both of the fol-  
12 lowing:

13 (1) The worker's compensation or similar  
14 law, except amounts which may be paid or  
15 payable under Title 39, ~~sections 56 or 56-A~~  
16 section 56-B; or

17 (2) The United States Social Security Act,  
18 if the employment for which creditable ser-  
19 vice with the employer is allowed was also  
20 covered under that act at the date of dis-  
21 ability retirement.

22 D. Lump-sum settlements of benefits that would  
23 reduce the disability retirement benefit under  
24 this subsection shall be prorated on a monthly  
25 basis in an equitable manner prescribed by the  
26 board.

27 (1) These prorated lump-sum settlements may  
28 not include any part of the lump-sum settle-  
29 ment attributable to vocational rehabilita-  
30 tion, attorneys' fees, physicians, nurses,  
31 hospital, medical, surgical or related fees  
32 or charges or any amount paid or payable un-  
33 der Title 39, section ~~56 or 56-A~~ 56-B.

34 (2) These prorated lump-sum settlements  
35 shall reduce the disability retirement bene-  
36 fit in the same manner and amount as monthly  
37 benefits under this subsection.

1           **Sec. 2. 39 MRSA §51-B, sub-§3** as amended by PL  
2 1985, c. 372, Pt. A, §9, is further amended to read:

3           **3. Compensation for incapacity.** The first pay-  
4 ment of compensation for incapacity under section  
5 ~~54-A or 55-A~~ 54-B or 55-B is due and payable within  
6 14 days after the employer has notice or knowledge of  
7 the injury or death. In cases where the employee did  
8 not lose time from work within 5 scheduled work days  
9 following the injury, compensation for incapacity under  
10 section ~~54-A or 55-A~~ 54-B or 55-B is due and pay-  
11 able within 14 days of the date the employee asserts  
12 to the employer that that lost time is related to the  
13 injury. Subsequent incapacity compensation benefit  
14 payments shall be made weekly and in a timely fash-  
15 ion.

16           **Sec. 3. 39 MRSA §51-B, sub-§4,** as amended by PL  
17 1985, c. 729, §1, is further amended to read:

18           **4. Compensation for impairment; compensation for**  
19 **medical expenses.** Compensation for impairment under  
20 ~~sections 56 and 56-A~~ section 56-B shall not be pay-  
21 able prior to the date on which the injured employee  
22 reaches the stage of maximum medical improvement. It  
23 shall become due and payable within 90 days after the  
24 employer has notice that maximum medical improvement  
25 has been attained. For the purpose of this subsec-  
26 tion, "maximum medical improvement" means the date  
27 after which further recovery and further restoration  
28 of function can no longer be reasonably anticipated,  
29 based upon reasonable medical probability. Compensa-  
30 tion for medical expenses, aids and other services  
31 under section 52 is due and payable within 90 days  
32 from the date a request is made for payment of these  
33 expenses.

34           **Sec. 4. 39 MRSA §57-B, sub-§3,** as enacted by PL  
35 1985, c. 372, Pt. A, §23, is amended to read:

36           **3. Reimbursement.** The employer shall be reim-  
37 bursed at least quarterly from the Employment Reha-  
38 bilitation Fund for any weekly wage replacement bene-  
39 fits for which he is liable under section ~~54-A, 55-A~~  
40 54-B, 55-B or 58-A, and which are paid by that em-  
41 ployer.

1 A. An employer entitled to reimbursement under  
2 this section remains liable to the employee for  
3 all payments otherwise required from him by this  
4 Act and remains responsible for carrying out the  
5 rehabilitation efforts required by subchapter  
6 III-A as a result of the subsequent injury.

7 B. A commissioner shall order a reduction, sus-  
8 pension or termination of reimbursement of an em-  
9 ployer under this section if the commissioner  
10 finds that the employer has not made a bona fide  
11 effort to return the employee to continuing gain-  
12 ful employment.

13 **Sec. 5.** 39 MRSA §5E-A, first ¶, as enacted by PL  
14 1985, c. 372, Pt. A, §25, is amended to read:

15 If death results from the injury, the employer  
16 shall pay the dependents of the employee, dependent  
17 upon his earnings for support at the time of his in-  
18 jury, a weekly payment equal to 2/3 his average gross  
19 weekly wages, earnings or salary, but not more than  
20 the maximum benefit under section 53-A 53-B, nor less  
21 than \$25 weekly from the date of death until the time  
22 provided for in subsection 2. This weekly compensa-  
23 tion shall be adjusted annually so that it continues  
24 to bear the same percentage relationship to the state  
25 average weekly wage, as computed by the Maine Unem-  
26 ployment Insurance Commission, as it did at the time  
27 of the injury, but in no case may the annual adjust-  
28 ment exceed the lesser of 5% or the actual percentage  
29 increase in the state average weekly wage for the  
30 previous year. The annual adjustment required by  
31 this section shall be made on the anniversary date of  
32 the injury, except that where the effect of the maxi-  
33 mum under section 53-A 53-B is to reduce the amount  
34 of compensation to which the claimant would otherwise  
35 be entitled, the adjustment shall be made annually on  
36 July 1st.

37 **Sec. 6.** 39 MRSA §62-A, sub-§1, as enacted by PL  
38 1979, c. 496, §2, is amended to read:

39 1. Reduction for unemployment benefits. Compensa-  
40 tion paid under this Act, ~~except for lump sum pay-~~  
41 ~~ments under sections 56 and 56-A~~ compensation under  
42 section 56-B and lump sum settlements, to any employ-

1 ee for any period with respect to which he is receiv-  
2 ing or has received benefits under the employment se-  
3 curity law, shall be reduced by the amount of the un-  
4 employment benefits.

5 **Sec. 7.** 39 MRSA §62-B, sub-§§1, 3 and 4, as en-  
6 acted by PL 1985, c. 372, Pt. A, §26, is amended to  
7 read:

8 1. Application. This section applies when week-  
9 ly compensation is payable to an employee under sec-  
10 tion 54-A--er--55-A 54-B or 55-B for any period for  
11 which he is receiving or has received old age insur-  
12 ance benefit payments under the United States Social  
13 Security Act, United States Code, Title 42, Sections  
14 301 to 1397f, or payments under an employee benefit  
15 plan.

16 3. Coordination of benefits. Benefit payments  
17 subject to this section shall be reduced in accord-  
18 ance with the following provisions.

19 A. The employer's obligation to pay weekly com-  
20 pensation under section 54-A--er--55-A 54-B or 55-B  
21 shall be reduced by:

22 (1) Fifty percent of the amount of old age  
23 insurance benefits received or being re-  
24 ceived under the United States Social Secu-  
25 rity Act;

26 (2) The after tax amount of the payments  
27 received or being received under an employee  
28 benefit plan provided by the same employer  
29 by whom benefits under section 54-A--er--55-A  
30 54-B or 55-B are payable if the employee did  
31 not contribute directly to the plan; and

32 (3) The proportional amount, based upon the  
33 ratio of the employer's contributions to the  
34 total contributions, of the after tax amount  
35 of the payments received or being received  
36 by the employee under an employee benefit  
37 plan provided by the same employer by whom  
38 benefits under section 54-A--er--55-A 54-B or  
39 55-B are payable if the employee did con-  
40 tribute directly to the plan.

1 B. No reduction in weekly compensation may be  
2 made if benefits received under an employee bene-  
3 fit plan are required to be reduced to reflect  
4 the receipt of benefits under this Act.

5 C. No reduction in weekly compensation may be  
6 made as a result of any increase granted by the  
7 United States Social Security Administration as a  
8 cost-of-living adjustment.

9 D. Weekly compensation may be reduced to no less  
10 than 10% of the amount due to the employee under  
11 section ~~54-A or 55-A~~ 54-B or 55-B or to a minimum  
12 weekly payment of \$7 after reduction under this  
13 section, whichever is greater.

14 4. Release of information. Within 14 days after  
15 the date of the first payment of compensation under  
16 section ~~54-A or 55-A~~ 54-B or 55-B or 14 days after  
17 the date of application for any benefits subject to  
18 coordination under this section, whichever is later,  
19 the employee shall, upon request, provide the employ-  
20 er with a certificate authorizing the employer to ob-  
21 tain any benefit information necessary to comply with  
22 this section. If, at any subsequent time, the em-  
23 ployer is required to submit a new certificate in or-  
24 der to receive that information, a new certificate  
25 shall be provided upon request within 14 days. All  
26 certificates for the release of information shall be  
27 in a form prescribed by the commission. If the em-  
28 ployee fails to provide a properly executed certifi-  
29 cate, the employer may, with the approval of the com-  
30 mission, suspend all benefit payments until the cer-  
31 tificate is provided. Any benefits so withheld shall  
32 be paid to the employee once the required certificate  
33 is provided, subject to any reductions authorized by  
34 this section.

35 **Sec. 8. 39 MRSA §188**, as amended by PL 1985, c.  
36 372, Pt. A, §46, is further amended to read:

37 §188. Partial incapacity

38 Compensation shall be payable for partial inca-  
39 pacity due to occupational diseases as provided in  
40 section 55-A 55-B of the Workers' Compensation Act.

1           **Sec. 9.** 39 MRSA §189, first ¶, as amended by PL  
2 1985, c. 372, Pt. A, §47, is further amended to  
3 read:

4           Compensation for partial or total incapacity or  
5 death from occupational disease shall be payable in  
6 the same manner and amounts as provided in sections  
7 54-A, 55-A, 54-B, 55-B and 58-A. Compensation shall  
8 not be payable for incapacity by reason of occupa-  
9 tional diseases unless such incapacity results within  
10 3 years after the last injurious exposure to such  
11 disease in the employment.

12           **Sec. 10.** 39 MRSA §194-B, sub-§8, ¶C, as amended  
13 by PL 1985, c. 372, Pt. A, §48, is repealed and the  
14 following enacted in its place:

15           C. If an employee becomes incapacitated or dies  
16 on or after October 1, 1983, but before June 30,  
17 1985, then compensation shall be payable in the  
18 same manner and amounts as provided in former  
19 sections 54, 55 and 58. If an employee becomes  
20 incapacitated or dies on or after June 30, 1985,  
21 but before the effective date of this paragraph,  
22 then compensation shall be payable in the same  
23 manner and amount as provided in former sections  
24 54-A, 55-A and 58-A. If an employee becomes in-  
25 capacitated or dies on or after the effective  
26 date of this paragraph, compensation shall be  
27 payable in the same manner and amount as provided  
28 in sections 54-B, 55-B and 58-A.

29           **Sec. 11.** PL 1987, c. 559 is amended by adding at  
30 the end the following:

31           **Emergency clause.** In view of the emergency cited  
32 in the preamble, this Act shall take effect when ap-  
33 proved.

34           **Sec. 12. Applicability.** This Act applies only to  
35 injuries occurring on or after the effective date of  
36 this Act.

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 corrects cross references in the Workers' Compensation Act and the occupational disease law created by the repeal of Title 39, sections 53-A, 54-A, 55-A, 56 and 56-A and adds an emergency clause to Public Law 1987, chapter 559.

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