

(New Draft of S.P. 781, L.D. 2038) SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2525

S.P. 953

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In Senate, March 15, 1988

Reported by Senator DUTREMBLE of York for the Committee on Labor and printed under Joint Rule 2. Original Bill sponsored by Senator BUSTIN of Kennebec. Cosponsored by: Representative THISTLE of Dover-Foxcroft, Senator GILL of Cumberland, and Representative GREENLAW of Standish.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT to Include Certain Prisoners Within the Provisions of the Workers' Compensation Act.

4 Be it enacted by the People of the State of Maine as 5 follows:

6 Sec. 1. 39 MRSA §2, sub-§5, ¶E, as enacted by PL 7 1987, c. 210, is repealed and the following enacted in 8 its place:

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1 2 3 4 5 6 7	E. The term "employee" does not include any person who is a sentenced prisoner in actual execution of a term of incarceration imposed in this State or any other jurisdiction for a criminal offense, except in relation to compensable injuries suffered by the prisoner during incarceration and while the prisoner is:
8 9 10	(1) A prisoner in a county jail under final sentence of 72 hours or less and is assigned to work outside of the county jail;
11	(2) Employed by a private employer;
12 13	(3) Participating in a work release program; or
14 15	(4) Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261.
16 17 18 19	Sec. 2. 39 MRSA \$102-A, as enacted by PL 1987, c. 559, Pt. B, \$43, is repealed and the following enacted in its place: <pre>§102-A. Incarceration of employee</pre>
20 21 22 23	1. Compensation while incarcerated. No compensation for incapacity under section 54-B or 55-B may be paid to any person during any period in which that percent is contorned priceport in actual
24	that person is a sentenced prisoner in actual execution of a term of incarceration imposed in this
25 26	State or any other jurisdiction for a criminal offense, except in relation to compensable injuries suffered during incarceration and while the prisoner
27	suffered during incarceration and while the prisoner
28	<u>15:</u>
29	A. Employed by a private employer;
30	B Participating in a work release program; or
31 32	C. Sentenced to imprisonment with intensive supervision under Title 17-A, section 1261.
33 34	2. Compensation forfeited. All compensation which is not payable under subsection 1 is

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forfeited.

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2 Sec. 3. Application. This Act shall apply only 3 to injuries which occur after the effective date of 4 this Act.

STATEMENT OF FACT

6 This new draft clarifies the exemption under the 7 Workers' Compensation Act for prisoners who are 8 incarcerated following a criminal conviction.

9 Section 1 of the new draft addresses the situation of prisoners who may receive injuries while performing work after they have been incarcerated. Under this 10 11 prisoner may qualify for workers' 12 section, а 13 compensation benefits in 4 situations. First, a 14 prisoner's work-related injury is covered b Workers' Compensation Act if he receives the by the 15 injury 16 period of while he is sentenced to serve a incarceration of 72 hours or less in a county jail and is assigned to work outside of the jail. Second, a 17 18 is assigned to work outside of the jail. 19 prisoner's work-related injury is covered if, during: his incarceration, he receives the injury while he is 20 21 within or employed by a private employer, either 22 outside of a correctional facility or county jail. 23 Third, the prisoner's injury is covered if he is 24 employed by a private or public employer under a work Finally, the injury is covered if 25 release program. 26 the prisoner is employed by a private or public 27 employer while he is sentenced to imprisonment with 28 intensive supervision.

29 draft Section 2 of the new deals with the 30 situation of prisoners who are receiving workers' compensation benefits before they are convicted and 31 32 sentenced to serve a period of incarceration. These prisoners will not receive any previously awarded workers' compensation incapacity benefits while they 33 34 35 are incarcerated. Such a prisoner may receive 36 incapacity benefits, even while incarcerated, if those 37 benefits are awarded for a work-related injury suffered while working for a private employer during 38 39 his incarceration, while working for a private

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or public employer under a work release program or while working for a private or public employer while the prisoner is sentenced to imprisonment with intensive supervision. All incapacity benefits payable due to a compensable injury suffered before a prisoner's incarceration are forfeited during the period of incarceration.

8 Section 3 of the new draft contains an application 9 clause ensuring that the new draft will apply only to 10 persons who suffer injuries after the effective date 11 of the new draft.

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