

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 184

S.P. 118

In Senate, February 15, 1989

Reference to the Committee on Labor suggested and ordered printed.

Joy J. O'Brien

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WHITMORE of Androscoggin.

Cosponsored by Senator ESTES of York, Representative McHENRY of Madawaska and Representative REED of Falmouth.

STATE OF MAINE

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

An Act Clarifying Intoxication Under the Workers' Compensation Law.



1 **Be it enacted by the People of the State of Maine as follows:**

3 **39 MRSA §61 is amended to read:**

5 **§61. Injury or death due to willful intention or intoxication**

7 No compensation or other benefits shall ~~may~~ be allowed for
the injury or death of an employee where it is proved that such
9 the injury or death was occasioned by ~~his~~ the employee's willful
intention to bring about the injury or death of ~~himself~~ the
11 employee or of another, or that the same injury or death resulted
from ~~his~~ the employee's intoxication while on duty. If the
13 employer demonstrates that the employee at the time of the
employee's death or injury had .08% or more by weight of alcohol
15 in the employee's blood, it shall be presumed, in the absence of
clear and convincing evidence to the contrary, that the injury
17 resulted from the employee's intoxication while on duty. This
provision as to intoxication shall not apply, if the employer
19 knew that the employee was intoxicated or that he the employee
was in the habit of becoming intoxicated while on duty.

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25 STATEMENT OF FACT

25

27 While current law provides that no workers' compensation or
other benefits are allowed from an injury or death resulting from
intoxication of a claimant while on duty, the lack of clarity in
29 the definition of intoxication seriously weakens the provision.
This bill establishes a presumptive standard of intoxication as
31 .08% or more by weight of alcohol in the claimant's blood.