

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 919, L.D. 1285, Bill, "An Act Regarding the Review of the Workers' Compensation Denials"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 39 MRSA §103-B, sub-§2, as enacted by PL 1981, c. 514, §6, is amended to read:

2. Basis. There shall be no appeal upon questions of fact found by the commission or by any commissioner, except to correct manifest error or injustice.

Sec. 2. 39 MRSA §103-B, sub-§2-A is enacted to read:

2-A. Basis. There shall be no appeal upon questions of fact found by the commission or by any commissioner.

Sec. 3. Report. The chair of the Workers' Compensation Commission shall report to the joint standing committee of the Legislature having jurisdiction over labor matters by January 1, 1991, regarding the implementation and effect of this Act. The report shall include a summary description of the number of cases in which questions of fact were appealed by the parties, the results of those appeals, the effect of those additional appeals upon the case load of the Workers' Compensation Commission, Appellate Division, and any other relevant information.

Sec. 4. Repeal. The Maine Revised Statutes, Title 39, section 103-B, subsection 2, as amended in this Act, is repealed on June 30, 1991.

Sec. 5. Effective date. Section 2 of this Act shall take effect on June 30, 1991.

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FISCAL NOTE

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5 Enactment of this bill may result in an increase in the
7 number of appeals with regard to workers' compensation
9 decisions. The Workers' Compensation Commission can absorb the
11 additional cost of this proposed legislation within its
13 resources.'

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STATEMENT OF FACT

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15 This amendment completely replaces the original bill. The
17 amendment deletes that portion of the bill that would have
19 replaced the current rule of construction regarding
21 interpretation of the Workers' Compensation Act. The amendment
23 retains that portion of the bill that permits an appeal of
25 factual questions. The amendment adopts the "manifest error or
27 injustice" standard employed by the courts under the Federal
29 Rules of Criminal Procedure and referred to by the Law Court in
31 State v. Perry, 408 A.2d 1300, note 3 at 1301 (Me. 1979). This
33 provides a very high standard that an appellant must meet in
order to prevail on an appeal of a factual question. The
standard is intended to allow the Workers' Compensation
Commission, Appellate Division, to overturn a single
commissioner's factual findings only when an obvious error exists
that seriously affects the commissioner's ruling on the case. It
does not permit the Appellate Division to "second-guess" a
commissioner's factual findings in most cases. The amendment
deletes language from the original bill that provided additional
limitations upon this standard that are unnecessary given the
history of strict application of this standard.

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37 Finally, the amendment provides for the automatic repeal of
39 the new appeal provision on June 30, 1991. The Workers'
Compensation Commission will report to the Legislature before
this date on the effects of this amendment upon workers'
compensation litigation. This ensures that the effects of this
amendment will be evaluated after it is implemented.

Reported by the Majority of the Committee on Labor
Reproduced and distributed under the direction of the Clerk of the
House
6/8/89

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