

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 871

H.P. 611

House of Representatives, February 27, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CLARK of Millinocket.

Cosponsored by Representative McHENRY of Madawaska, Representative TRACY of Rome and Senator CONLEY of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act Relating to Notice of Injury for Purposes of Workers'
Compensation and Occupational Disease Claims.**

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

4 Sec. 1. 39 MRSA §63-A is enacted to read:

6 §63-A. Notice of injury for occupational injury claims

8 An employee or person acting on the employee's behalf shall
10 give notice to an employer of an injury or death, for which
12 compensation may be payable under this Act, within 30 days after
14 the date of that injury or death or within 30 days after the
16 employee or person acting on the employee's behalf is aware or,
18 in the exercise of reasonable diligence, should have been aware,
20 of a relationship between the injury or death and the employment.

22 1. Lack of timely notice. Failure to provide notice within
24 the 30-day period does not bar a claim for benefits under this
26 Act, unless the lack of timely notice results in actual prejudice
28 to the employer.

30 2. Actual prejudice defined. Actual prejudice includes,
32 but is not limited to a showing that:

34 A. The claimant's injury was aggravated by the employer's
36 inability to provide early diagnosis and treatment; and

38 B. The employer was hampered in investigation of the claim
40 and preparation of a defense due to lack of timely notice.

42 3. Burden of proof. The burden of proof regarding notice
44 rests with the employee or person acting on the employee's behalf
46 after the employer has made a preliminary showing that the notice
48 requirements were not complied with by the employee or a person
50 on the employee's behalf.

52 Sec. 2. 39 MRSA §187-A is enacted to read:

§187-A. Notice of injury for purposes of occupational disease
claims

An employee or person acting on the employee's behalf shall
give notice of an occupational disease or death, for which
compensation may be payable under this Act, within 30 days after
the date of that incapacity or death or within 30 days after the
employee or person acting on the employee's behalf is aware or,
in the exercise of reasonable diligence, should have been aware,
of a relationship between the occupational disease or death and
the employment.

1. Lack of timely notice. Failure to provide notice within
the 30-day period does not bar a claim for benefits under this
Act, unless the lack of timely notice results in actual prejudice
to the employer.

