

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 687

S.P. 216

In Senate, February 25, 1993

An Act to Amend the Occupational Disease Law.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUSTIN of Kennebec.

Cosponsored by Senators: CONLEY of Cumberland, DUTREMBLE of York, LAWRENCE of York, PARADIS of Aroostook, PEARSON of Penobscot, Representatives: ADAMS of Portland, AHEARNE of Madawaska, CAMERON of Rumford, CARROLL of Gray, CHONKO of Topsham, CLARK of Millinocket, CLEMENT of Clinton, COFFMAN of Old Town, DRISCOLL of Calais, ERWIN of Rumford, HALE of Sanford, HATCH of Skowhegan, HUSSEY of Milo, LEMONT of Kittery, MARTIN of Van Buren, MARTIN of Eagle Lake, MICHAUD of East Millinocket, MITCHELL of Freeport, MORRISON of Bangor, OLIVER of Portland, ST. ONGE of Greene, SWAZEY of Bucksport, TRACY of Rome.

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

4 Sec. 1. 39-A MRSA §206, first ¶, as enacted by PL 1991, c. 885,
Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 An employee sustaining a personal injury arising out of and
8 in the course of employment or disabled by or diagnosed as having
an occupational disease is entitled to reasonable and proper
10 medical, surgical and hospital services, nursing, medicines, and
mechanical, surgical aids, as needed, paid for by the employer.

12 Sec. 2. 39-A MRSA §603, as enacted by PL 1991, c. 885, Pt. A,
§8 and affected by §§9 to 11, is amended to read:

14 **§603. Occupational disease defined**

16 As used in this chapter, the term "occupational disease"
18 means only a disease that is due to causes and conditions
characteristic of a particular trade, occupation, process or
20 employment and that arises out of and in the course of
employment. "Occupational disease" does not include repetitive
22 trauma syndromes.

24 Sec. 3. 39-A MRSA §605, as enacted by PL 1991, c. 885, Pt. A,
§8 and affected by §§9 to 11, is amended to read:

26 **§605. Aggravation of occupational disease**

28 When an occupational disease is aggravated by any other
30 disease or infirmity not itself compensable, or death or
incapacity from any other cause not itself compensable is
32 aggravated, prolonged, accelerated or in any way contributed to
by an occupational disease, the compensation payable must be
34 reduced and limited to the proportion only of the compensation
that would be payable if the occupational disease were the sole
36 cause of the incapacity or death as the occupational disease, as
a causative factor, bears to all the causes of that incapacity or
38 death, the reduction in compensation to be effected by reducing
the number of weekly or monthly payments or the amounts of the
40 payments as, under the circumstances of the particular case, may
be for the best interest of the claimant or claimants. This
42 section only applies if the date of incapacity as defined in
section 606 is prior to October 1, 1993.

44 Sec. 4. 39-A MRSA §609, as enacted by PL 1991, c. 885, Pt. A,
46 §8 and affected by §§9 to 11, is repealed and the following
enacted in its place:

48 **§609. Compensation limits**

50

2 Compensation for partial or total incapacity or death from
3 occupational disease is payable as provided in sections 212, 213
4 and 215. If the last injurious exposure occurred prior to
5 October 1, 1990, compensation is not payable for incapacity by
6 reason of occupational disease unless the incapacity results
7 within 3 years after the last injurious exposure to the
8 occupational disease in the employment.

9
10 If the last injurious exposure occurred on or after October
11 1, 1990, the time for filing claims does not begin to run until
12 the later of the time after incapacity or the time the person
13 claiming benefits knew, or by exercise of reasonable diligence
14 should have known of the causal relationship between the
15 employment and the employee's incapacity.

16 The 3-year limitation under this section does not apply to a
17 full-time firefighter who files a claim for an occupationally
18 related cancer under this chapter and whose last injurious
19 exposure to a carcinogen in the employer's employment occurred
20 after January 1, 1985. For the purposes of this section,
21 "full-time firefighter" means a regular full-time member, active
22 or retired, of a municipal fire department if that person has
23 aided in the extinguishment of fires, whether or not that person
24 had administrative duties or other duties as a member of the
25 municipal fire department.

26
27 **Sec. 5. 39-A MRSA §609-A is enacted to read:**

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29 **§609-A. Medical services**

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31 An employee with an occupational disease is entitled to
32 medical services to the same extent as is provided to an injured
33 worker under the Maine Workers' Compensation Act of 1992 even if
34 the employee is not incapacitated by the occupational disease.

35 **Sec. 6. 39-A MRSA §613, as enacted by PL 1991, c. 885, Pt. A,**
36 **§8 and affected by §§9 to 11, is amended to read:**

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38 **§613. Silicosis**

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40 In the absence of evidence in favor of the claim, disability
41 or death from silicosis is presumed not to be due to the nature
42 of any occupation, unless during the 15 years immediately
43 preceding the date of disability the employee was exposed to the
44 inhalation of silica dust over a period of at least 2 years. If
45 the employee has been employed by the same employer during the
46 whole of the 2-year period, the employee's right to compensation
47 against such employer is affected by the fact that the employee
48 had been employed during any part of the 2-year period outside of

2 the State. This section only applies if the date of incapacity
as defined in section 606 is prior to October 1, 1993.

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STATEMENT OF FACT

This bill amends the Occupational Disease Law to provide the same level of coverage for all occupational diseases as is currently provided for radiation-related and asbestos-related diseases. The definition of "occupational disease" is amended to clarify that it does not include repetitive trauma syndromes, which are covered under the Workers' Compensation Act as injuries. This bill also rejects the holding of the Maine Law Court in Manzo v. Great Northern Paper Company, 615 A.2d 605 (Me. 1992) by amending the Workers' Compensation Act of 1992 and the Occupational Disease Law to provide that an employee who has been diagnosed as having an occupational disease is entitled to medical services even if the employee has not been incapacitated by the disease.