

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 304

H.P. 226

House of Representatives, January 27, 1995

**An Act Concerning the Offset of Workers' Compensation Benefits by
Social Security Benefits.**

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative HATCH of Skowhegan.
Cosponsored by Senator: BUSTIN of Kennebec.

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

2
3 **Sec. 1. 39-A MRSA §221, sub-§3, ¶A**, as enacted by PL 1991, c.
4 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 A. The employer's obligation to pay or cause to be paid
7 weekly benefits other than benefits under section 212,
8 subsection 2 or 3 is reduced by the following amounts:

10 (1) Fifty percent of the amount of the old-age
11 insurance benefits received or being received under the
12 United States Social Security Act but not if the
13 old-age insurance benefits had started prior to the
14 date of injury and not if the benefits are spouse's
15 benefits;

16 (2) The after-tax amount of the payments received or
17 being received under a self-insurance plan or a wage
18 continuation plan or under a disability insurance
19 policy provided by the same employer from whom benefits
20 under section 212 or 213 are received if the employee
21 did not contribute directly to the plan or to the
22 payment of premiums regarding the disability insurance
23 policy. If the self-insurance plans, wage continuation
24 plans or disability insurance policies are entitled to
25 repayment in the event of a workers' compensation
26 benefit recovery, the insurance carrier shall satisfy
27 the repayment out of funds the insurance carrier has
28 received through the coordination of benefits provided
29 for under this section;

30 (3) The proportional amount, based on the ratio of the
31 employer's contributions to the total insurance
32 premiums for the policy period involved, of the
33 after-tax amount of the payments received or being
34 received by the employee pursuant to a disability
35 insurance policy provided by the same employer from
36 whom benefits under section 212 or 213 are received, if
37 the employee did contribute directly to the payment of
38 premiums regarding the disability insurance policy;

39 (4) The after-tax amount of the pension or retirement
40 payments received or being received pursuant to a plan
41 or program established or maintained by the same
42 employer from whom benefits under section 212 or 213
43 are received, if the employee did not contribute
44 directly to the pension or retirement plan or program;

45 (5) The proportional amount, based on the ratio of the
46 employer's contributions to the total contributions to
47 the plan or program, of the after-tax amount of the
48 pension or retirement payments received or being
49 received;

2 received by the employee pursuant to a plan or program
established or maintained by the same employer from
4 whom benefits under section 212 or 213 are received, if
the employee did contribute directly to the pension or
retirement plan or program; and

6
8 (6) For those employers who do not provide a pension
plan, the proportional amount, based on the ratio of
10 the employer's contributions to the total contributions
made to a qualified profit sharing plan under the
12 United States Internal Revenue Code, Section 401(a) or
any successor to the United States Internal Revenue
14 Code, Section 401(a) covering a profit sharing plan
that provides for the payment of benefits only upon
16 retirement, disability, death, or other separation of
employment to the extent that benefits are vested under
the plan.

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STATEMENT OF FACT

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This bill provides that a workers' compensation benefit may
not be reduced to offset old-age insurance benefits received
24 under social security if those benefits were being received prior
to the date of injury or if those benefits are spouse's
26 benefits. This bill is intended to overturn the Law Court's
decisions in Casey v. Town of Portage Lake, 598 A.2d 448 (1991)
28 and in Berry v. H.R. Beal & Sons, et. al., Decision no. 7040,
November 9, 1994.