

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1346

H.P. 957

House of Representatives, April 18, 1995

An Act to Amend the Occupational Disease Law.

Received by the Clerk of the House on April 13, 1995. Referred to the Committee on Labor and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Representatives: ADAMS of Portland, BERRY of Livermore, KEANE of Old Town, MORRISON of Bangor, SAMSON of Jay, Senator: FAIRCLOTH of Penobscot.

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, 1995.

44 **Sec. 4. 39-A MRSA §609**, as corrected by RR 1993, c. 1, §142,
46 is repealed and the following enacted in its place:

48 **§609. Compensation limits**

50 Compensation for partial or total incapacity or death from

2 occupational disease is payable as provided in sections 212, 213
3 and 215. If the last injurious exposure occurred prior to
4 October 1, 1992, compensation is not payable for incapacity by
5 reason of occupational disease unless the incapacity results
6 within 3 years after the last injurious exposure to the
7 occupational disease in the employment.

8 If the last injurious exposure occurred on or after October
9 1, 1992, the time for filing claims does not begin to run until
10 the later of the time after incapacity or the time the person
11 claiming benefits knew, or by exercise of reasonable diligence
12 should have known, of the causal relationship between the
13 employment and the employee's incapacity.

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

24
25 **Sec. 5. 39-A MRSA §609-A** is enacted to read:

26
27 **§609-A. Medical services**

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

32
33 **Sec. 6. 39-A MRSA §613**, as enacted by PL 1991, c. 885, Pt. A,
34 §8 and affected by §§9 to 11, is amended to read:

35 **§613. Silicosis**

36 In the absence of evidence in favor of the claim, disability
37 or death from silicosis is presumed not to be due to the nature
38 of any occupation, unless during the 15 years immediately
39 preceding the date of disability the employee was exposed to the
40 inhalation of silica dust over a period of at least 2 years. If
41 the employee has been employed by the same employer during the
42 whole of the 2-year period, the employee's right to compensation
43 against such employer is affected by the fact that the employee
44 had been employed during any part of the 2-year period outside of
45 the State. This section only applies if the date of incapacity
46 as defined in section 606 is prior to October 1, 1995.

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STATEMENT OF FACT

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6 This bill amends the Occupational Disease Law to provide the
8 same level of coverage for all occupational diseases as is
10 currently provided for radiation-related and asbestos-related
12 diseases. The definition of "occupational disease" is amended to
14 clarify that it does not include repetitive trauma syndromes,
16 which are covered under the Maine 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 Maine 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.