

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

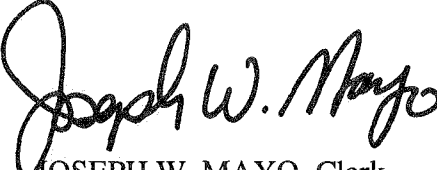
No. 75

H.P. 50

House of Representatives, January 9, 1997

An Act to Provide that the Change in Calculation of Workers' Compensation Benefits to Include Fringe Benefits Does Not Apply Retroactively.

Reference to the Committee on Labor suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CARLETON of Wells.

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

4 **Sec. 1. 39-A MRSA §102, sub-§4, ¶H,** as enacted by PL 1991, c.
885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

6 H. "Average weekly wages, earnings or salary" does not
8 include any fringe or other benefits paid by the employer
that continue during the disability. Any For injuries
10 occurring on or after January 1, 1993, any fringe or other
benefit paid by the employer that does not continue during
12 the disability must be included for purposes of determining
an employee's average weekly wage to the extent that the
14 inclusion of the fringe or other benefit will not result in
a weekly benefit amount that is greater than 2/3 of the
state average weekly wage at the time of injury. For
16 injuries occurring before January 1, 1993, the inclusion of
fringe or other benefits paid by the employer in the
18 calculation of average weekly wage must be determined in
accordance with Public Law 1991, chapter 615, Part A,
20 section 20 and Part D, section 25.

22 **Sec. 2. Application.** Notwithstanding the Maine Revised
24 Statutes, Title 1, section 302, this Act applies to all actions
and proceedings pending on the effective date of this Act.

26
28 **SUMMARY**

30 The Workers' Compensation Act of 1992 changed the definition
of average weekly wage so that the value of certain fringe
32 benefits provided by the employer must be included if it does not
raise the employee's average weekly wage over 2/3 of the
34 statewide average. In Beaulieu v. Maine Medical Center, 675
A.2d 110 (Me. 1996), the Maine Law Court held that the new
36 definition applies retroactively to pre-1993 injuries. This bill
provides that the new definition does not apply to injuries
occurring prior to January 1, 1993.