MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 586

S.P. 197

In Senate, January 21, 1999

An Act to Abolish Apportionment in Workers' Compensation Claims.

Reference to the Committee on Labor suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

- Sec. 1. 39-A MRSA §354, sub-§§2 and 3, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, are amended to read:
 - 2. Liability to employee. If an employee has sustained more than one injury while employed by different employers, or if an employee has sustained more than one injury while employed by the same employer and that employer was insured by one insurer when the first injury occurred and insured by the same or another insurer when the subsequent injury or injuries occurred, the insurer providing coverage at the time of the last injury shall initially be responsible to the employee for all benefits payable under this Act.
- Subrogation. Any insurer determined to be liable for benefits under subsection 2 must be subrogated to the employee's rights under this Act for all benefits the insurer has paid and for which another insurer may be liable for any injury occurring before January 1, 1993. Any-such-insurer-may, -in-accordance-with rules-adopted-by-the-Superintendent-of-Insurance,--file-a-request for-appointment-ef-an-arbitrator-to-determine-apportionment-ef liability -- among -- the -- responsible -- insurers -- -- The -- arbitrator's decision-is-limited-te-a-choice-between-the-submissions-of-the parties-and-may-net-be-calculated-by-averaging---Within-30-days ef-the-request/-the-Superintendent-of-Insurance-shall-appoint-a neutral-arbitrater-whe-shall-decide, -in-accordance with -the-rules adopted-by-the-Superintendent-ef-Insurance,-respective-liability among -- or -- between -- incurers -- -- Arbitration -- pursuant -- to -- this subsection -- is -- the - exclusive -- means -- for - resolving - apportionment disputes - among - insurers - and - the - decision - of - the - arbitrator - is conclusive-and-binding-among-all-parties-involved---Apportionment desisiens-made-under-this-subsection-may-not-affect-an-employee's rights-and-benefits-under-this-Act-

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SUMMARY

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This bill adopts a "last injury rule" in cases involving multiple injuries after January 1, 1993. The bill eliminates apportionment and assigns responsibility to the last insurer responsible for an injury that contributes to a compensable condition. This rule is used by a majority of states in place of apportionment.