

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2075

H.P. 1454

House of Representatives, March 30, 1999

**An Act to Amend the Maine Workers' Compensation Act of 1992 as it
Pertains to Occupational Health.**

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 COWGER of Hallowell.
Cosponsored by Senator DOUGLASS of Androscoggin and
Representatives: BRYANT of Dixfield, CAMERON of Rumford, DUPLESSIE of Westbrook,
HATCH of Skowhegan, O'BRIEN of Augusta, SAMSON of Jay, VOLENIK of Brooklin,
Senator: KILKELLY of Lincoln.

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

2

4 **Sec. 1. 39-A MRSA §606**, as amended by PL 1995, c. 462, Pt. A, §81, is further amended to read:

6 **§606. Date from which compensation is computed; employer liable**

8 The date when an employee becomes incapacitated by an occupational disease from performing the employee's work in the
10 last occupation in which the employee was injuriously exposed to the hazards of the occupational disease is the date of the injury
12 equivalent to the date of injury under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992.
14 When compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously
16 exposed to the hazards of the occupational disease and the insurance carrier, if any, on the risk when the employee was last
18 exposed under that employer, are liable. The amount of the compensation must be based on the average wages of the employee
20 when last exposed under that employer and notice of injury and claim for compensation must be given to that employer. The only
22 employer and insurance carrier liable are the ~~last--employer~~ employers in whose employment the employee was last injuriously
24 exposed to the hazards of the disease during a period of 60 days or more and the insurance carrier, if any, on the risk when the
26 employee was last so exposed, under that employer.

28 **Sec. 2. 39-A MRSA §607**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

30

32 **§607. Notice of incapacity; filing of claim**

34 Sections 301 to 307 with reference to giving notice, making claims and filing petitions apply to cases under this chapter,
36 except that, in cases under this chapter, the date of incapacity defined in section 606 is equal to the date of injury in sections
38 301 to 307, and the notice of injury under section 301 may be given within 180 days after the date of injury and must include
40 the employee's name and address, the nature of the occupational disease, the date of incapacity, the name of the employer in
42 whose employment the employee was last injuriously exposed for a period of 60 days to the hazards of the disease and the date when
44 employment with that employer ceased. After compensation payments for an occupational disease have been legally discontinued, claim
46 for further compensation for that occupational disease not due to further exposure to an occupational hazard tending to cause that
48 disease are barred if not made within one year after the last previous payment.

2 **Sec. 3. 39-A MRSA §609**, as corrected by RR 1993, c. 1, §142,
is amended to read:

4 **§609. Compensation limits**

6 Compensation for partial or total incapacity or death from
occupational disease is payable as provided in sections 212, 213
8 and 215. Compensation is not payable for incapacity by reason of
occupational diseases unless the incapacity results within 3
10 years after the last injurious exposure to the occupational
disease in the employment.

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

24 **Sec. 4. 39-A MRSA §611**, as enacted by PL 1991, c. 885, Pt. A,
§8 and affected by §§9 to 11, is amended to read:

26 **§611. Impartial medical advice**

28 ~~On request of a party or on its own motion the~~ The board may
30 shall in occupational disease cases appoint one or more competent
and impartial physicians. Upon order of the board, the fees and
32 expenses of the health care provider or health care providers
must be paid by the employer. These appointees shall examine the
34 employee and inspect the industrial conditions under which the
employee has worked in order to determine the nature, extent and
36 probable duration of the occupational disease, the likelihood of
its origin in the industry and the date of incapacity. Section
38 207 applies to the filing and subsequent proceedings on the
report of the appointees and to examinations and treatments by
40 the employer.

42 If a claim is made for death from an occupational disease,
an autopsy may be ordered by the board under the supervision of
44 impartial appointees. All proceedings for or payments of
compensation to any claimant refusing to permit such an autopsy
46 when ordered are suspended on and during the continuance of such
a refusal.

48 **Sec. 5. 39-A MRSA §614, sub-§2**, as enacted by PL 1991, c. 885,
50 Pt. A, §8 and affected by §§9 to 11, is amended to read:

2 **2. Scope.** This section applies only to asbestos-related
diseases caused or contributed to by a-last an injurious exposure
4 to asbestos that occurred on or after November 30, 1967.

6 Except as otherwise provided in this section, all provisions of
this chapter apply to asbestos-related diseases.
8

10 **Sec. 6. 39-A MRSA §614, sub-§4**, as enacted by PL 1991, c. 885,
Pt. A, §8 and affected by §§9 to 11, is repealed.

12 **Sec. 7. 39-A MRSA §§616 and 617** are enacted to read:

14 **§616. Special provisions for certain chemicals and metals**

16 **1. Definition.** As used in this section, the term
"chemical-related or metal-related disease" means a disease
18 caused by exposure to one or more of the following chemicals or
metals:

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A. Acetone;

22

B. Ammonia;

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C. Beryllium;

26

D. Cadmium;

28

E. Cadmium fumes;

30

F. Calcium oxide;

32

G. Chlorine;

34

H. Chromic acid and chromate;

36

I. Chromium;

38

J. Copper dust and mist;

40

K. Copper fumes;

42

L. Crystalline silica;

44

M. Fluoride;

46

N. Hydrogen fluoride;

48

O. Hydrogen peroxide;

50

2 P. Inorganic fluoride;

4 Q. Inorganic lead;

6 R. Inorganic nickel;

8 S. Iron oxide fumes;

10 T. Ketones;

12 U. Lead;

14 V. Lime;

16 W. Manganese;

18 X. Nickel metal and soluble nickel;

20 Y. Oxide of nitrogen;

22 Z. Ozone;

24 AA. Phosgene;

26 BB. Sulfur dioxide;

28 CC. Turpentine; or

30 DD. Zinc oxide.

32 2. Application. Except as otherwise provided in this
34 section, all provisions of this chapter apply to chemical-related
36 or metal-related diseases.

38 3. Aggravation of condition. Section 605 does not apply to
40 chemical-related or metal-related diseases.

42 4. Compensation limit. The 3-year limit provided in
44 section 609 does not apply to chemical-related or metal-related
46 diseases.

48 5. Further compensation. Notwithstanding section 607,
50 after compensation payments for incapacity or death caused by a
 chemical-related or metal-related disease have been legally
 discontinued, a claim for further compensation for that disease
 not due to further exposure to chemicals or metals in that
 employment is barred if not made within 40 years after the last
 previous payment.

SUMMARY

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4 This bill permits a person to seek compensation for a
disease caused by exposure to a variety of chemicals and metals.
6 It allows compensation for diseases that occur 3 years after the
exposure, as is the case for asbestos-related diseases and, in
8 the case of firefighters, occupationally related cancer. Current
law places a 3-year limit on other occupational diseases. The
10 bill also requires the Workers' Compensation Board to appoint an
impartial physician to each occupational disease claims case. It
12 also extends liability to all employers under which a person was
exposed to a substance that causes an occupational disease. It
14 also provides a person 180 days from the date of an occupational
disease injury to file a claim. Current law provides a person 90
days to file a claim.