

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1169

S.P. 355

In Senate, February 28, 2001

An Act to Amend the Requirements of the Workers' Compensation Law.

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TURNER of Cumberland.
Cosponsored by Representative FOSTER of Gray and
Senators: SAWYER of Penobscot, SHOREY of Washington, YOUNGBLOOD of Penobscot.

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

2
3 **Sec. 1. 39-A MRSA §212**, as enacted by PL 1991, c. 885, Pt. A,
4 §8 and affected by §§9 to 11, is repealed.

6 **Sec. 2. 39-A MRSA §§212-A and 212-B** are enacted to read:

8 **§212-A. Temporary compensation for total and partial incapacity**

10 **1. Temporary total incapacity.** When the incapacity for
11 work resulting from the injury is total, the employer shall pay
12 the injured employee, on a temporary basis, a weekly compensation
13 equal to 80% of the employee's after-tax average weekly wage, but
14 not more than the maximum benefit under section 211.
15 Compensation for incapacity must be paid for a temporary period
16 not to exceed the earlier of 52 weeks from the start of the
17 employee's temporary benefits or the date when maximum medical
18 improvement is reached pursuant to section 212-B. The board may,
19 for good cause, extend the temporary period.

20 **2. Temporary partial incapacity.** When the incapacity for
21 work is partial, the employer shall pay the injured employee, on
22 a temporary basis, a weekly compensation equal to 80% of the
23 difference between the injured employee's after-tax average
24 weekly wage before the personal injury and the after-tax average
25 weekly wage that the injured employee is able to earn after the
26 injury, but not more than the maximum benefit under section 211.
27 Compensation must be paid for a temporary period not to exceed
28 the earlier of 52 weeks from the start of the employee's
29 temporary benefits or the date when maximum medical improvement
30 is reached pursuant to section 212-B. The board may, for good
31 cause, extend the temporary period.

32 **§212-B. Permanent compensation for total and partial incapacity**

34 **1. Permanent partial incapacity.** After an employee has
35 received 26 weeks of temporary compensation under section 212-A,
36 subsection 1 or 2, the employee must undergo a medical
37 examination pursuant to section 312. At the time of exam, the
38 examiner shall determine whether the employee has reached a stage
39 of maximum medical improvement. If, after 26 weeks, the
40 independent medical examiner appointed pursuant to section 312
41 determines that the employee has not reached a stage of maximum
42 medical improvement, the examiner shall schedule a follow-up
43 examination based upon the examiner's estimation of when maximum
44 medical improvement will be reached. In any event, such a
45 follow-up examination may not occur later than 52 weeks from the
46 start of the employee's temporary benefits under section 212-A,
47 subsection 1 or 2.

2 At the earlier of 52 weeks from the start of the employee's
3 temporary benefit or the date when maximum medical improvement is
4 reached, an employee is no longer eligible to receive temporary
5 benefits under this subsection or subsection 2.

6 2. Benefit and duration. After an employee reaches a stage
7 of maximum medical improvement, permanent compensation benefits
8 must be paid in accordance with the impairment guidelines adopted
9 by the board pursuant to section 153, subsection 8. For each one
10 percent of the employee's permanent impairment, the employee is
11 eligible to receive 5 weeks of compensation equal to 80% of the
12 employee's after-tax average weekly wage, but not more than the
13 maximum benefit under section 211, if the incapacity is total or
14 equal to 80% of the difference between the injured employee's
15 after-tax average weekly wage that the injured employee is able
16 to earn after the injury, but not more than the maximum benefit
17 under section 211, if the incapacity is partial.

18 3. Permanent total incapacity. An employee must receive a
19 lump sum payment of \$50,000 in the following cases:

20 A. Total and permanent loss of sight of both eyes;

21 B. Actual loss of both legs or both feet at or above the
22 ankles;

23 C. Actual loss of both arms or both hands at or above the
24 wrists;

25 D. Actual loss of any 2 of the body parts or faculties in
26 paragraphs A, B and C;

27 E. Permanent and complete paralysis of both legs or one leg
28 and one arm;

29 F. Incurable insanity or imbecility; and

30 G. Permanent and total loss of industrial use of both legs
31 or both hands or both arms or one leg and one arm.

32 It is conclusively presumed for 520 weeks from the date of injury
33 that the injury resulted in permanent total incapacity and that
34 the employee is unable to perform full-time remunerative work in
35 the ordinary competitive labor market in the State. After 520
36 weeks have elapsed, the question of permanent and total
37 incapacity must be determined in accordance with the facts as
38 they then exist, but the weekly benefit may be no less than \$200
39 per week.

