

# MAINE STATE LEGISLATURE

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R. of S.

L.D. 2202

DATE: 4-5-02

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to S.P. 822, L.D. 2202, Bill, "An Act to Ensure that 25% of Workers' Compensation Cases with Permanent Impairment Remain Eligible for Duration-of-disability Benefits in Accordance With the Workers' Compensation Act"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 39-A MRSA §213, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Benefit and duration. While the incapacity for work is partial, the employer shall pay the injured employee a weekly compensation equal to 80% of the difference between the injured employee's after-tax average weekly wage before the personal injury and the after-tax average weekly wage that the injured employee is able to earn after the injury, but not more than the maximum benefit under section 211. Compensation must be paid for the duration of the disability if the employee's permanent impairment, determined according to subsection 1-A and the impairment guidelines adopted by the board pursuant to section 153, subsection 8 resulting from the personal injury is in excess of 15% to the body. In all other cases an employee is not eligible to receive compensation under this section after the employee has received 260 weeks of compensation under section 212, subsection 1, this section or both. The board may in the exercise of its discretion extend the duration of benefit entitlement beyond 260 weeks in cases involving extreme financial hardship due to inability to return to gainful employment. This authority may not be delegated to a hearing officer and such decisions must be made expeditiously.

H. of S.

2           **Sec. 2. 39-A MRSA §213, sub-§1-A** is enacted to read:

4           1-A. Determination of permanent impairment. For purposes  
6 of this section, "permanent impairment" includes only permanent  
impairment resulting from:

8           A. The work injury at issue in the determination;

10           B. Any work injury other than the work injury at issue in  
12 the determination that combines with that injury and  
contributes to the employee's incapacity; or

14           C. Any preexisting condition or injury that is aggravated  
16 or accelerated by the work injury at issue.

18           **Sec. 3. 39-A MRSA §213, sub-§2**, as enacted by PL 1991, c. 885,  
Pt. A, §8 and affected by §§9 to 11, is amended to read:

20           **2. Threshold adjustment.** Effective January 1, 1998 and  
22 every other January 1st thereafter, the board, using an  
independent actuarial review based upon actuarially sound data  
24 and methodology, must adjust the 15% impairment threshold  
established in subsection 1 so that 25% of all cases with  
26 permanent impairment will be expected to exceed the threshold and  
75% of all cases with permanent impairment will be expected to be  
28 less than the threshold. The actuarial review must include all  
cases receiving permanent impairment ratings on or after January  
30 1, 1993, irrespective of date of injury, but may utilize a cutoff  
date of 90 days prior to each adjustment date to permit the  
32 collection and analysis of data. The data must be adjusted to  
reflect ultimate loss development. In order to ensure the  
34 accuracy of the data, the board shall require that all cases  
involving permanent injury, including those settled pursuant to  
36 section 352, include an impairment rating performed in accordance  
with subsection 1-A and the guidelines adopted by the board and  
38 either agreed to by the parties or determined by the board. Each  
adjusted threshold is applicable to all cases with dates of  
40 injury on or after the date of adjustment and prior to the date  
of the next adjustment.

42           **Sec. 4. Application; retroactivity.** Notwithstanding the Maine  
44 Revised Statutes, Title 1, section 302, this Act applies  
retroactively to pending cases and to injuries occurring on or  
after January 1, 1993, except that:

46           1. It does not allow a change in the permanent impairment  
48 assessment in an individual case in which a previous final decree  
finding the extent of permanent impairment has been issued and  
50 appeal proceedings have been completed; and



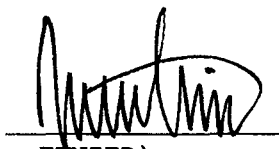
R. of S.

HOUSE AMENDMENT "A" to S.P. 822, L.D. 2202

2 This amendment makes the changes contained in this Act  
retroactive.

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SPONSORED BY:   
(Representative ETNIER)

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10 TOWN: Harpswell

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# HOUSE AMENDMENT