

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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Legislative Document

No. 1259

H.P. 887

House of Representatives, March 8, 2007

An Act To Use the Date of Injury To Calculate the Average Weekly Wage in Occupational Disease Cases

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WATSON of Bath.
Cosponsored by Representatives: BERRY of Bowdoinham, CLARK of Millinocket, DILL of Cape Elizabeth, PRIEST of Brunswick, Senators: BARTLETT of Cumberland, MILLS of Somerset, PERRY of Penobscot.

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

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

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

5 The date when an employee becomes incapacitated by an occupational disease from
6 performing the employee's work in the last occupation in which the employee was
7 injuriously exposed to the hazards of the occupational disease is the date of the injury
8 equivalent to the date of injury under the former Workers' Compensation Act or the
9 Maine Workers' Compensation Act of 1992. When compensation is payable for an
10 occupational disease, the employer in whose employment the employee was last
11 injuriously exposed to the hazards of the occupational disease and the insurance carrier, if
12 any, on the risk when the employee was last exposed under that employer, are liable. The
13 amount of the compensation must be based on the average wages of the employee ~~when~~
14 ~~last exposed under that employer and notice~~ on the date of injury. Notice of injury and
15 claim for compensation must be given to ~~that~~ the employer in whose employment the
16 employee was last injuriously exposed to the hazards of the occupational disease. If the
17 employee is no longer working on the date of incapacity, then the average wages of a
18 comparable employee as of the date of injury must be used to determine the amount of
19 compensation. The only employer and insurance carrier liable are the last employer in
20 whose employment the employee was last injuriously exposed to the hazards of the
21 disease during a period of 60 days or more and the insurance carrier, if any, on the risk
22 when the employee was last so exposed, under that employer.

23 **SUMMARY**

24 Under current law, the average weekly wage in occupational disease cases is
25 calculated using the average wage of the employee when the employee was last exposed
26 to the hazards of the occupational disease. This bill specifies that the average weekly
27 wage must be based on the average wage of the employee on the date of injury.