



124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1529

S.P. 587

In Senate, December 17, 2009

An Act To Amend the Maine Workers' Compensation Act of 1992 Regarding Coordination of Benefits

Reported by Senator JACKSON of Aroostook for the Workers' Compensation Board pursuant to the Maine Revised Statutes, Title 39-A, section 152, subsection 11. Received by the Secretary of the Senate on December 17, 2009. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

JOY J. O'BRIEN Secretary of the Senate

1 Be it enacted by the People of the State of Maine as follows: 2 Sec. 1. 39-A MRSA §221, sub-§2, as enacted by PL 1991, c. 885, Pt. A, §8 and 3 affected by §§9 to 11, is repealed and the following enacted in its place: 2. Definitions. As used in this section, the following terms have the following 4 5 meanings. A. "After-tax amount" means the gross amount of any benefit under subsection 3, 6 7 paragraph A, subparagraph (2), (3), (4) or (5) reduced by the prorated weekly amount 8 that would have been paid, if any, under the Federal Insurance Contributions Act, 26 9 United States Code, Sections 3101 to 3126, state income tax and federal income tax, calculated on an annual basis using as the number of exemptions the disabled 10 11 employee's dependents plus the employee, and without excess itemized deductions. 12 In determining the "after-tax amount" the tables provided for in section 102. subsection 1 must be used. The gross amount of any benefit under subsection 3, 13 14 paragraph A, subparagraph (2), (3), (4) or (5) is presumed to be the same as the average weekly wage for purp ses of the table. The applicable 80% of after-tax 15 16 amount as provided in the table multiplied by 1.25, is conclusive for determining the "after-tax amount" of benefits under subsection 3, paragraph A, subparagraph (2), (3), 17 18 (4) or (5). 19 B. "Disability insurance policy" does not include a life insurance policy that includes 20 a disability feature. 21 Sec. 2. Retroactivity. This Act applies retroactively to all injuries including 22 pending cases and cases on appeal. 23 SUMMARY 24 This bill, which is in response to the decision of the Maine Supreme Judicial Court in 25 Nichols v. S.D. Warren/Sappi, 2007 ME 103, 928 A.2d 732, provides that "disability 26 insurance policy," as used in the coordination of benefits provisions of the Maine 27 Workers' Compensation Act of 1992, does not include a life insurance policy that 28 includes a disability feature.