

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1501

S.P. 463

In Senate, April 4, 2019

**An Act To Change the Law Governing Occupational Disease Claims
under the Maine Workers' Compensation Act of 1992**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative CUDDY of Winterport and
Representatives: SYLVESTER of Portland, TUCKER of Brunswick.

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

2 **Sec. 1. 26 MRSA §1192, sub-§5**, as amended by PL 1991, c. 885, Pt. E, §39 and
3 affected by §47, is further amended to read:

4 **5. Has earned wages.** For each eligible individual establishing a benefit year on or
5 after January 1, 1980, the individual has been paid wages equal to or exceeding 2 times
6 the annual average weekly wage for insured work in each of 2 different quarters in the
7 individual's base period and has been paid total wages equal to or exceeding 6 times the
8 annual average weekly wage in the individual's base period for insured work. The annual
9 average weekly wage amount to be used for purposes of this subsection is that which is
10 applicable at the time the individual files a request for determination of insured status.
11 For the purpose of this subsection, wages are counted as "wages for insured work" for
12 benefit purposes with respect to any benefit year only if such benefit year begins
13 subsequent to the date on which the employer by whom such wages were paid has
14 satisfied the conditions of section 1043, subsection 9, or section 1222, subsection 3, with
15 respect to becoming an employer; provided that no individual may receive benefits in a
16 benefit year, unless, subsequent to the beginning of the next preceding benefit year during
17 which that individual received benefits, that individual performed services and earned
18 remuneration for such service in an amount equal to not less than 8 times that individual's
19 weekly benefit amount in employment by an employer in the benefit year being
20 established. This subsection applies only to any individual requesting determination of
21 insured status on and after January 1, 1972. In determining a claimant's qualification
22 under this subsection, payments pursuant to former Title 39, sections 54 and 55, the
23 Workers' Compensation Act, ~~and~~ former Title 39, sections 188 and 189, ~~and~~ Title 39-A,
24 former sections 608 and 609, the Occupational Disease Law, are considered wages for
25 insured work.

26 **Sec. 2. 39-A MRSA §102, sub-§4, ¶I** is enacted to read:

27 I. If, on the date of incapacity resulting from occupational cumulative trauma or
28 exposure, the employee no longer works in the same occupation in which the
29 employee worked when the employee incurred the last injurious occupational
30 cumulative trauma or exposure, then the amount of the employee's compensation
31 must be determined by using the average weekly wages on the date of injury of
32 comparable employees who are employed full-time in the same occupation as was the
33 employee at the time of the employee's last injurious exposure.

34 **Sec. 3. 39-A MRSA §102, sub-§16-A** is enacted to read:

35 **16-A. Personal injury.** "Personal injury" includes any condition or disease
36 contributed to by an employee's occupational cumulative trauma or exposure that arises
37 out of and in the course of employment. The employer in whose employment the
38 employee was last injuriously exposed to the occupational trauma or exposure is fully
39 liable for all incapacity resulting from the occupational trauma or exposure. The date of
40 injury for an occupational cumulative trauma or exposure injury is the date the employee
41 becomes incapacitated from the occupational cumulative trauma or exposure.

1 employee was last injuriously exposed to the occupational trauma or exposure is fully
2 liable for all incapacity resulting from the occupational trauma or exposure; and

3 5. Establishes that the date of injury for an occupational cumulative trauma or
4 exposure injury is the date that the employee becomes incapacitated from the
5 occupational cumulative trauma or exposure.