

# MAINE STATE LEGISLATURE

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# Sixty-Sixth Legislature.

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HOUSE.

No. 91.

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED  
AND NINETY-THREE.

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AN ACT to provide Compensation to Employees for personal injuries caused by the negligence of their employers.

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*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows.*

SECTION 1. Where, after the passage of this act, personal injury is caused to an employee, who is himself in the exercise of due care and diligence at the time ;

(1). By reason of any defect in the condition of the ways, works or machinery connected with or used in the business of the employer, which arose from or had not been discovered or remedied owing to the negligence of the employer or any person in the service of the employer and entrusted by him with the duty of seeing that the ways, works or machinery were in proper condition ; or

(2). By reason of negligence of any person in the service of the employer, entrusted with and exercising

13 superintendence, whose sole or principal duty is that of  
14 superintendence ;

3). By reason of the negligence of any person in the  
16 service of the employer who has the charge or control of  
17 any signal, switch, locomotive engine or train on a rail-  
18 road, the employee, or in case the injury results in death  
19 the legal representatives of such employee, shall have the  
20 same right of compensation and remedies against the  
21 employer as if the employee had not been an employee  
22 of nor in the service of the employer, nor engaged in his  
23 work. And in case such death is not instantaneous, or  
24 is preceded by conscious suffering, said legal representa-  
25 tives may in the action brought under this section, except  
26 as hereinafter provided, also recover damages for such  
27 death. The total damages hereunder, both for said death  
28 and said injury, shall not exceed five thousand dollars,  
29 and shall be apportioned by the jury between the legal  
30 representatives and the persons, if any, entitled under  
31 the succeeding section of this act, to begin an action for  
32 instantaneous death. If there are no such persons then  
33 no damages for such death shall be recovered, and dam-  
34 ages, so far as the same are awarded for said death, shall  
35 be assessed with reference to the degree of culpability of  
36 the employer herein, or the person for whose negligence  
37 he is made liable.

SECT. 2. Where the employee is instantly killed or  
2 dies without conscious suffering as the result of the negli-  
3 gence of an employer, or of the negligence of any person  
4 for whose negligence the employer is liable under the  
5 provisions of this act, the widow of the deceased, or in  
6 case there is no widow, the next of kin, provided that

7 such next of kin were at the time of the death of such  
8 employee dependent upon the wages of such employee  
9 for support, may maintain an action for damages there-  
10 for and may recover in the same manner, to the same  
11 extent, as if the death of the diseased had not been  
12 instantaneous, or as if the diseased had consciously suf-  
13 fered.

SECT. 3. Except in actions brought by the personal  
2 representatives under section one of this act to recover  
3 damages for both the injury and death of an employee,  
4 the amount of compensation recoverable under this act in  
5 cases of personal injury shall not exceed the sum of four  
6 thousand dollars. In case the death which follows instan-  
7 taneously or without conscious suffering, compensation  
8 in lieu thereof may be recovered in not less than five  
9 hundred dollars and not more than five thousand dollars,  
10 to be assessed with reference to the degree of culpability  
11 of the employer, or the person for whose negligence  
12 he is made liable; and no action for the recovery  
13 of compensation for injury or death under this  
14 act shall be maintained unless notice of the time, place  
15 and cause of the injury is given to the employer within  
16 thirty days, and the action is commenced within one year  
17 from the occurrence of the accident causing the injury or  
18 death. The notice required by this section shall be in  
19 writing, signed by the person injured or by some one in  
20 his behalf; but if from physical or mental incapacity it is  
21 impossible for the person injured to give the notice within  
22 the time provided in said section, he may give the same  
23 within ten days after such incapacity is removed, and in  
24 case of his death without having given the notice and

25 without having been for ten days at any time after his  
26 injury of sufficient capacity to give the notice, his  
27 executor or administrator may give such notice within  
28 thirty days after his appointment. And no notice given  
29 under the provisions of this section shall be deemed to  
30 be invalid or insufficient solely by reason of any inac-  
31 curacy in stating the time, place or cause of the injury ;  
32 *provided*, it is shown that there was no intention to mis-  
33 lead, and that the party entitled to notice was not in fact  
34 misled thereby.

SECT. 4. Whenever an employer enters into a contract,  
2 either written or verbal, with an independent contractor  
3 to do part of such employer's work, or whenever such  
4 contractor enters into a contract with a sub-contractor to  
5 do all or any part of the work comprised in such contractor's  
6 contract with the employer, such contract or sub-contract  
7 shall not bar the liability of the employer for the injuries  
8 to the employees of such contractor or sub-contractor, by  
9 reason of any defect in the condition of the ways, works,  
10 machinery or plant, if they are the property of the em-  
11 ployer or furnished by him, and if such defect arose or  
12 had not been discovered or remedied, through the neg-  
13 ligence of the employer or of some person entrusted by  
14 him with the duty of seeing that they are in proper con-  
15 dition.

SECT. 5. An employee or his legal representatives shall  
2 not be entitled under this act to any right of compensa-  
3 tion or remedy against his employer in any case where  
4 such employee knew of the defect or negligence which  
5 caused the injury, and failed within a reasonable time to  
6 give, or cause to be given, information thereof to the

7 employer, or to such person superior to himself in the  
8 service of the employer, who had entrusted to him some  
9 general superintendence.

SECT. 6. Any employer who shall have contributed to  
2 an insurance fund created and maintained for the mutual  
3 purpose of indemnifying an employee for personal injuries  
4 for which compensation may be recovered under this act,  
5 or to any relief society organized under the laws of this  
6 State for the aforesaid purpose, may prove in mitigation  
7 of the damages recoverable by an employee under this  
8 act, such proportion of the pecuniary benefit which has  
9 been received by such employee from any such fund or  
10 society on account of such contribution of said employer,  
11 as the contribution of such employer to such fund or  
12 society bears to the whole contribution thereto.

SECT. 7. No person or corporation shall, by a special  
2 contract with persons in his or its employ, exempt himself or  
3 itself from any liability which he or it might otherwise be  
4 under to such persons for injuries suffered by them in their  
5 employment and which result from the employer's own  
6 negligence or from the negligence of other persons for  
7 whose negligence such employer is made liable.

SECT. 8. This act shall not apply to injuries caused  
2 to domestic servants, or farm laborers by other fellow  
3 employees.







STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
February 9, 1893. }

Tabled, pending reference in concurrence to Committee on Labor, by  
Mr. HIGGINS of Limerick, and ordered printed.

W. S. COTTON, *Clerk.*