

MAINE STATE LEGISLATURE

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Seventy-first Legislature.

HOUSE.

No. 29

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THREE.

AN ACT to extend and regulate the liability of employers to
make compensation for personal injuries suffered by employees
in their service.

*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
2 injury is caused to the employee, who is in the exercise of due
3 care and diligence at the time:

First—A defect in the condition of the ways, works or
5 machinery connected with or used in the business of the
6 employer, which arose from, or had not been discovered
7 remedied in consequence of, the negligence of the employer
8 or of a person in his service who has been instructed by him
9 with the duty of seeing that the ways, works or machinery
10 were in a proper condition; or,

Second—The negligence of a person in the service of the
12 employer who was entrusted with and was exercising superin-
13 tendence and whose sole or principal duty that of superin-

14 tendence, or, in the absence of such superintendent, or a per-
15 son acting as superintendent, with the authority or consent
16 of such employer ; or,

Third—The negligence of a person in the service of the
18 employer who was in charge or control of a signal, switch,
19 locomotive engine or train upon a railroad ; the employee, or
20 his legal representative, shall, subject to the provisions of the
21 eight following sections, have the same rights to compensa-
22 tion and of action against the employer as if he had not been
23 an employee, nor in the service, nor engaged in the work of
24 the employer.

A car which is in use by, or which is in possession of, a rail-
26 road corporation shall be considered as a part of the ways,
27 works or machinery of the corporation which uses or has it
28 in possession, within the meaning of clause one of this sec-
29 tion, whether it is owned by such corporation or by some
30 other company or person. One or more cars which are in
31 motion, whether attached to an engine or not, shall constitute
32 a train within the meaning of clause three of this section, and
33 whoever, as a part of his duty for the time being, physically
34 directs or controls the movements of a signal, switch, loco-
35 motive engine or train shall be deemed to be a person in
36 charge or control of a signal, switch, locomotive engine or
37 train within the meaning of said clause.

Sect. 2. If the injury described in the preceding section
2 results in the death of the employee, and such death is not
3 instantaneous, or is preceded by conscious suffering, and if
4 there is any person who would have been entitled to bring an
5 action under the provisions of the following section, the legal
6 representative of said employee may, in the action brought
7 under the provisions of the preceding section, recover dam-
8 ages for the death in addition to those of the injury.

Sect. 3. If, as the result of the negligence of an employee
2 himself or of a person for whose negligence an employer is

3 liable under the provisions of section one, an employee is
4 instantly killed, or dies without conscious suffering, his widow
5 or, if he leaves no widow, his next of kin, who, at the time
6 of his death, were dependent upon his wages for support,
7 shall have a right of action for damages against the employer.

Sect. 4. If, under the provisions of either of the two pre-
2 ceding sections, damages are awarded for the death, they
3 shall be assessed with reference to the degree of culpability
4 of the employer or of the person for whose negligence the
5 employer is liable.

The amount of damages which may be awarded in an action
7 under the provisions of section 1 for a personal injury to an
8 an employee, in which no damages for his death are awarded
9 under the provisions of section 2 shall not exceed four thou-
10 sand dollars.

The amount of damages which may be awarded in such
12 action, if damages for his death are awarded under the pro-
13 visions of section 2, shall not exceed five thousand dollars for
14 both the injury and the death, and shall be apportioned by
15 the jury between the legal representative of the employee
16 and the persons who would have been entitled, under the
17 provisions of section 3, to bring an action for his death if it
18 had been instantaneous or without conscious suffering.

The amount of damages which may be awarded in an action
20 brought under the provisions of section 3 shall not be less
21 than five hundred nor more than five thousand dollars.

Sect. 5. No action for the recovery of damages for injury
2 or death under the provisions of sections 1 to 4 inclusive,
3 shall be maintained unless notice of the time, place
4 and cause of the injury is given to the employer within sixty
5 days, and the action is commenced within one year, after the
6 accident which caused the injury or death. Such notice shall
7 be in writing, signed by the person injured or by a person in
8 his behalf; but if from physical or mental incapacity it is

9 impossible for the person injured to give the notice within
10 the time provided in this section, he may give it within ten
11 days after such incapacity has been removed, and if he dies
12 without having given the notice and without having been for
13 ten days at any time after his injury of sufficient capacity to
14 give it, his executor or administrator may give such notice
15 within sixty days after his appointment. A notice given
16 under the provisions of this section shall not be held invalid
17 or insufficient solely by reason of an inaccuracy in stating
18 the time, place or cause of the injury, if it be shown that
19 there was no intention to mislead, and that the employer was
20 not in fact misled thereby.

Sect. 6. An employee or his legal representative shall not
2 be entitled under the provisions of sections 1 to 4, inclusive,
3 to any right of action for damages against his employer if
4 such employee knew of the defect or negligence which caused
5 the injury, and failed within a reasonable time to give, or
6 cause to be given, information thereof to the employer, or to
7 some person superior to himself in the service of the employer
8 who was intrusted with general superintendence.

Sect. 7. The provisions of the six preceding sections shall
2 not apply to injuries caused to domestic servants or farm
3 laborers by fellow employees.

Sect. 8. This act shall take effect when approved.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES,

AUGUSTA, January 30, 1903.

Tabled pending reference in concurrence to Committee on Legal
Affairs, by Mr. DREW of Portland, and ordered printed.

W. S. COTTON, *Clerk.*