

MAINE STATE LEGISLATURE

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SEVENTY-SEVENTH LEGISLATURE

SENATE

NO. 3

In Senate, Jan. 19, 1915.

Ordered, that five hundred copies be printed and that the same be referred to the Committee on Workmen's Compensation.

Committee of Reference.

Presented by Mr. Swift of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND FIFTEEN

AN ACT relative to compensation to employees for personal injuries received in the course of their employment and to the prevention of such injuries.

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

Section 1. The following words and phrases as used in
2 this act shall, unless a different meaning is plainly required
3 by the context, have the following meaning:

I. "Employer" shall include corporations, partnerships,
5 natural persons, the state, counties, water districts, cities
6 and also such towns as vote to accept the provisions of this
7 act.

II. "Employee" shall include every person in the service

9 of another under any contract of hire, express or implied,
10 oral or written, except: (a) farm laborers, (b) domestic
11 servants, (c) persons whose employment by corporations,
12 partnerships and natural persons is not in the usual course
13 of the trade, business, profession or occupation of their
14 employers, (d) officials of the state, counties, cities, towns
15 or water districts.

III. "Assenting Employer" shall include all employers
17 who have complied with the provisions of section 13 hereof
18 and to whom a certificate authorized by such section has
19 been issued, so long as such certificate remains in force.

IV. "Commission" shall mean The Industrial Accident
21 Commission of the State of Maine created by section 11
22 hereof.

V. "Industrial Accident Insurance Policy" shall mean a
24 policy in such form as the Commission approves, issued by
25 any stock or mutual casualty insurance company, that may
26 be now or hereafter authorized to do business in this state,
27 which in substance and effect guarantees the payment of
28 the compensation, medical and hospital services and ex-
29 penses of sickness and burial hereby required, in such in-
30 stallments, at such time or times, to such person or persons
31 and upon such conditions as in this act provided. When-
32 ever a policy or certificate of renewal thereof is filed as
33 herein provided a copy of such policy, certified by the sec-
34 retary of the Commission, shall be admissible as evidence

35 in any legal proceeding wherein the original would be ad-
36 missible.

VI. "Insurance Company" shall mean any casualty Insur-
38 ance company authorized to do business in the state of
39 Maine, which may issue policies conforming to the pro-
40 visions of the next preceding paragraph. Whenever in the
41 sections hereof relating to procedure the word "Insurance
42 Company" is used it shall be held to apply only to cases in
43 which the employer has elected to file such policy instead
44 of paying premiums to the industrial accident fund.

VII. "Representatives" may include executors, adminis-
46 trators, or dependents of deceased employees. Payments
47 may be made to dependents directly or to executors or ad-
48 ministrators. If payments are made to the latter they shall
49 pay the same to dependents as herein provided.

VIII. "Dependents" shall mean members of the employee's
51 family or next of kin who were wholly or partly dependent
52 upon the earnings of the employee for support at the time
53 of the injury. The following persons shall be conclusively
54 presumed to be wholly dependent for support upon a de-
55 ceased employee: (a) A wife upon a husband with whom
56 she lives at the time of his death, or from whom, at the
57 time of his death, the Commission shall find the wife was
58 living apart for justifiable cause or because he had deserted
59 her. The findings of the Commission upon the questions
60 of such justifiable cause and desertion shall be final. (b) A
61 husband upon a wife. (c) A child, or children under the

62 age of eighteen years (or over said age, but physically or
63 mentally incapacitated from earning) upon the parent with
64 whom he is, or they are, living at the time of the death of
65 such parent, there being no surviving dependent parent.
66 In case there is more than one child thus dependent, the
67 death benefit shall be divided equally among them. In all
68 other cases questions of dependency, in whole or in part,
69 shall be determined in accordance with the fact, as the fact
70 may be at the time of the injury; and in such other cases,
71 if there is more than one person wholly dependent, the
72 death benefit shall be divided among them, and persons
73 partly dependent, if any, shall receive no part thereof; if
74 there is no one wholly dependent and more than one person
75 partly dependent, the death benefit shall be divided among
76 them according to the relative extent of their dependency.

IX. "Average Weekly Wages" shall mean the earnings
78 of the injured employee during the period of fifty-two weeks
79 immediately preceding the date of the injury divided by
80 fifty-two; but if the injured employee lost more than two
81 weeks' time during such period, then the earnings for the
82 remainder of such fifty-two weeks shall be divided by the
83 number of weeks remaining after the time so lost has been
84 deducted. Where, by reason of the shortness of time dur-
85 ing which the employee has been in the employment of his
86 employer, or the nature or terms of the employment, it is
87 impracticable to compute the average weekly wages as above
88 defined, regard may be had to the average weekly amount

89 which during the fifty-two weeks previous to the injury
90 was being earned by a person in the same grade of em-
91 ployment, at the same work, by the same employer; or, if
92 there is no person so employed, by a person in the same
93 grade employed in the same class of employment and in the
94 same county.

X. In the sections of this act relating to notices and pro-
96 cedure all powers and rights granted to, or duties and obliga-
97 tions imposed upon, employers or employees shall enure to
98 the benefit of and may be exercised by guardians of minors
99 or other incapacitated persons and representatives of de-
100 ceased persons.

Sect. 2. In an action against an employer to recover dam-
2 ages for personal injury sustained by an employee in the
3 course of his employment, or from death resulting from
4 personal injury so sustained, it shall not be a defence (a)
5 that the employee was negligent, (b) that the injury was
6 caused by the negligence of a fellow employee, (c) that the
7 employee has assumed the risk of injury.

Sect. 3. The provisions of section 2 hereof shall not apply
2 to assenting employers. In the case of personal injury sus-
3 tained by an employee in the course of his employment or
4 of death resulting from personal injury so sustained, assent-
5 ing employers shall be exempt from suits either at common
6 law or under revised statutes, chapter 89, section 9, or the
7 act of 1909, chapter 258.

Sect. 4. An employee who receives a personal injury arising out of, and in the course of, his employment by an assenting employer, or the representatives of an employee who has died as the result of such personal injury arising out of and in the course of his employment by an assenting employer, shall, without regard to the negligence of any person be paid compensation as in this section provided.

I.—No compensation shall be paid under this act for the first two weeks after the injury. Compensation shall begin at the expiration of said period. II.—During the first two weeks after the injury there shall be paid the cost of reasonable medical and hospital services and medicines when they are needed, but not exceeding thirty dollars in amount. In severe cases requiring surgical operations, the Commission may, in its discretion, allow larger fees and may order medical and surgical attention for a longer period than two weeks if such attention is needed. III.—If death results from the injury, the compensation to the dependents of the employee, wholly dependent on his earnings for support at the time of the injury, shall be a weekly payment equal to two-thirds his average weekly wages but not more than ten dollars per week nor less than five dollars per week for a period of five hundred weeks from date of injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the compensation shall be a weekly payment, equal to the same

27 proportion of the weekly payments for the benefit of per-
28 sons wholly dependent as the amount contributed by the
29 employee to such partial dependents bears to the annual
30 earnings of the deceased at the time of his injury. When
31 weekly payments have been made to an injured employee
32 before his death, the compensation to dependents shall begin
33 from the date of the last of such payments but shall not
34 continue more than five hundred weeks from the date of
35 the injury. IV.—If the employee leaves no dependents,
36 there shall be paid to his representatives the reasonable ex-
37 penses of his last sickness and burial, which shall not exceed
38 two hundred dollars. V.—When the incapacity for work
39 resulting from injury is total the compensation shall be a
40 weekly payment equal to two-thirds his average weekly
41 wages but not more than ten dollars per week nor less than
42 four dollars per week for five hundred weeks. Thereafter,
43 so long as such incapacity continues, the compensation shall
44 be equal to one-third of such average weekly wages, but
45 not more than six dollars per week nor less than three dol-
46 lars per week. VI.—When the incapacity for work result-
47 ing from the injury is partial the compensation shall be a
48 weekly payment equal to two-thirds the difference between
49 his average weekly wages before the injury and the average
50 weekly wages he is able to earn thereafter but not more
51 than ten dollars per week and in no case shall the period
52 covered by such compensation be greater than five hundred

53 weeks from date of injury. VII.—In case of the follow-
54 ing specified injuries, the amounts hereinafter named shall
55 be paid in addition to all other compensations: (a) For
56 loss by severance of both hands at, or above, the wrists or
57 the permanent total loss of the use thereof, or both feet at,
58 or above the ankle, or the permanent total loss of the use
59 thereof, or the loss of one hand and one foot, or the per-
60 manent total loss of the use thereof, or the reduction to
61 one-tenth of normal vision in both eyes with glasses, two-
62 thirds the average weekly wages of the injured person but
63 not more than ten dollars per week, nor less than four dol-
64 lars per week, for a period one hundred weeks. (b) For
65 loss by severance of either hand at or above the wrist or
66 the permanent total loss of the use thereof, or either foot
67 at or above the ankle, or the permanent total loss of the
68 use thereof, or the reduction to one-tenth of normal vision
69 in either eye with glasses, two-thirds the average weekly
70 wages of the injured person, but not more than ten dollars
71 per week, and not less than four dollars per week, for a
72 period of fifty weeks. (c) For loss by severance at, or
73 above, the second joint of two or more fingers, thumbs or
74 toes, two-thirds the average weekly wages of the injured
75 person but not more than ten dollars per week nor less than
76 four dollars per week for a period of twenty-five weeks.
77 (d) For loss by severance of at least one phalanx of a
78 finger, thumb or toe, two-thirds the average weekly wages

79 of the injured person, but not more than ten dollars per
80 week nor less than four dollars per week for a period of
81 twelve weeks.

Sect. 5. No savings or insurance of the injured employee
2 independent of this act shall be taken into consideration in
3 determining the compensation to be paid hereunder; nor
4 shall benefits derived from any other source be considered
5 in fixing the compensation under this act.

Sect. 6. An employee who claims compensation hereunder,
2 or some person in his behalf, shall notify his employer or
3 the Commission, of the time, place and cause of the injury.
4 The notice shall be in writing and shall not be invalidated
5 by any informality or any inaccuracy unless intended to
6 mislead the employer or the Commission and unless the
7 employer or the Commission is actually misled. The notice
8 shall within fourteen days after the injury be served on the
9 employer personally or by sending same by registered mail
10 directed to the usual post-office address of the employer,
11 or by sending same to the Commission by registered mail
12 directed to Augusta. Failure to give notice as above shall
13 not bar recovery if due to accident, mistake or misfortune.
14 The notice required by this section shall not be necessary
15 if the Commission, or any member thereof, has within four-
16 teen days after the injury actual knowledge thereof. Ex-
17 cept as herein specified such failure to give notice shall bar
18 recovery of compensation. In case notice as required by
19 this section shall be served upon the employer, it shall be

20 his duty forthwith to forward the same, or a copy thereof,
21 to the Commission.

Sect. 7. No agreement by an employee to waive his rights
2 to compensation under this act shall be valid. No payment
3 under this act shall be assignable or subject to attachment,
4 or be liable in any way for any debts. The Commission may
5 in unusual cases, if the parties agree, approve the redemp-
6 tion of the liability hereby created by the payment of a sum
7 equivalent to the present worth thereof. But except in the
8 case of the special injuries described in section 4, paragraph
9 VII, such redemption shall not be approved until the ex-
10 piration of six months after the injury.

Sect. 8. After an employee has received an injury and
2 from time to time thereafter during the continuance of his
3 disability he shall, if so requested by the Commission, sub-
4 mit himself to an examination by a physician or surgeon
5 authorized to practice medicine under the laws of this state,
6 furnished and paid for by the Commission, or by the In-
7 surance Company. The employee shall have the right to
8 have a physician provided and paid for by himself present
9 at the examination. If he refuses to submit himself for
10 the examination or in any way obstructs the same, his right
11 to compensation shall be suspended, and his compensation,
12 during the period of suspension may be forfeited. The
13 Commission may appoint a duly qualified, impartial physi-

14 cian to examine the injured employee and to report. The
15 fee for this service shall not exceed five dollars and travel-
16 ing expenses for each such examination, which shall be paid
17 for by the Commission.

Sect. 9. In case the injury to the employee is purposely
2 self inflicted his right to compensation hereunder shall be
3 forfeited. If the injury to the employee resulting in dis-
4 ability or death shall be caused by the employer's wilful
5 negligence or violation of any law requiring the use of
6 safety devices, such employer shall be liable to pay for the
7 benefit of said employee and the state a sum equal to the
8 present worth of such compensation as such employee is
9 entitled to hereunder. Such liability shall be enforced by
10 the Commission by an action on the case in the supreme
11 judicial or any superior court in the name of such employee.
12 No settlement of such liability shall be valid unless approved
13 by the Commission. Any sum so recovered shall be dis-
14 posed of as follows: One-half of such sum shall be paid
15 to the state treasurer for the benefit of the state; one-half
16 shall be paid to the state treasurer to be by him added to
17 the Industrial Accident Fund and paid to such employee in
18 addition to his other compensation in monthly payments or
19 otherwise as the Commission may determine. The finding
20 by the Commission of such present worth shall be prima
21 facie evidence thereof, but shall be subject to review by the
22 court.

Sect. 10. Where the injury for which compensation is payable under this act was caused under circumstances creating a liability in some person other than the assenting employer to pay damages in respect thereof the employee may at his option proceed by suit at law to recover damages or may proceed under this act to recover compensation, but shall not have both remedies. In case the employee shall elect to take compensation the Commission may maintain an action at law in the name of such employee to enforce such liability. Any sum recovered in such suit shall be paid to the state treasurer and be by him added to the Industrial Accident Fund.

Sect. 11. A Commission is hereby created to be known as The Industrial Accident Commission of the State of Maine and it shall consist of three members. The Insurance Commissioner and the Commissioner of Labor and Industry shall be ex-officio members of this Commission. The Governor shall appoint a chairman of this Commission who shall hold office for three years from date of appointment and unless removed, as hereunder provided, shall hold office until his successor is appointed and qualified. Such chairman shall be sworn and for inefficiency, wilful neglect of duty or for malfeasance in office, may after notice and hearing be removed from office by the Governor and Council. In case of vacancy occurring through death, resignation or removal, the Governor shall appoint a successor for the whole term of three years, subject to removal as afore-

16 said. Such chairman shall receive a salary of three thou-
17 sand dollars per annum. The other members of the Com-
18 mission shall receive a salary of five hundred dollars per
19 annum in addition to compensation received by them under
20 existing law. The members of the Commission shall also
21 receive their actual necessary travelling and other expenses.

The Commission shall have a secretary appointed and
23 removable by it whose salary shall be fifteen hundred dol-
24 lars per annum. It shall be allowed the sum of ten thou-
25 sand dollars, or so much thereof as is necessary, for expert
26 and clerical assistance and other expenses in organizing a
27 suitable system of administration. From and after Janu-
28 ary first, 1916, it shall be allowed the sum of ten thousand
29 dollars per annum, or such part thereof as is necessary, for
30 clerical and other assistance, travelling expenses, physicians'
31 and witness fees and other necessary expenses.

The Commission shall have a seal bearing the words "In-
33 dustrial Accident Commission Maine." It shall have its
34 office and keep its records at the State House in Augusta
35 but may hold its sessions at any place within the state. The
36 Commission shall have and exercise the following powers:

I. To make rules and regulations not inconsistent with
38 this act or other laws of the state for the purpose of carry-
39 ing out the provisions hereof.

II. To establish rules for determining and to determine
41 the amount of premiums to be paid by assenting employers;
42 such amounts to have reference to the number of employees,

43 amount of pay-roll, hazard of employment; the sums neces-
44 sary for segregation as provided herein and for the estab-
45 lishment of a reasonable reserve.

Sect. 12. The Commission in addition to the powers and
2 duties herein otherwise granted and imposed shall have the
3 following powers and be subject to the following duties:

I. To issue subpoenas for witnesses and subpoenas duces
5 tecum to compel the production of books and papers re-
6 lating to questions in dispute before it or before any mem-
7 ber of it. Witness fees shall be the same as in the case of
8 witnesses before probate courts.

II. To approve any settlement made in accordance with
10 the provisions hereof between an Insurance Company and
11 any injured employee of an assenting employer. No such
12 settlement shall be valid unless in writing, filed with the
13 Commission and approved by it.

III. To determine the amount of compensation to be
15 paid any injured employee; and the amount to be paid for
16 medical and hospital services or for sickness and burial
17 under Paragraphs II and IV of Section 4 hereof.

For the purpose of determining the amount of compensa-
19 tion in cases where no settlement has been made and ap-
20 proved, hearing shall be held in the town where the accident
21 occurred, causing the injury or death, unless the claimant
22 requests in writing that such hearing shall be elsewhere.
23 Such hearing may be before the chairman of the board or
24 one of the members, designated by the chairman for that

25 purpose, or it may be before the Commission. If the hear-
26 ing shall be held before the chairman, or one member, either
27 party within seven days from the time findings are filed,
28 shall have the right to appeal to the Commission. Hear-
29 ings on appeal before the Commission shall be held at Au-
30 gusta, unless the Commission otherwise determines. Such
31 findings, original or on appeal, shall be filed in the office of
32 the Commission. Reasonable notice of hearings and find-
33 ings shall be given the claimant and Insurance Company.
34 Such notice may be given by sending same by mail post
35 paid directed to such post office address as the person to be
36 notified has given to the Commission. Otherwise, the Com-
37 mission may give notice in any manner that it deems
38 proper.

IV. If aggravation, diminution or termination of disabil-
40 ity takes place, or is discovered after the right of compensa-
41 tion shall have been established, the Commission may upon
42 application of the beneficiary, or upon its own motion, re-
43 adjust for future application the rate of compensation in
44 accordance with the rules in this act provided, or in a prop-
45 er case, terminate payments. Before taking such action,
46 however, the Commission shall give all parties interested
47 reasonable opportunity to be heard.

V. To determine and make return to the state treasurer
49 of the amount necessary to be set apart to pay such adjudi-
50 cated claims upon the Industrial Accident Fund as in the
51 opinion of the Commission will continue more than a year.

52 In making such determination they shall assume interest at
53 three and one-half per cent. per annum with annual rests,
54 and shall use where applicable the American Mortality
55 Table.

VI. To require employers to make prompt reports of all
57 accidents to their employees in the course of their employ-
58 ment with the average weekly wages or earnings of such em-
59 ployee and such other particulars as the Commission deems
60 important; also to report whenever an injured employee
61 shall resume his employment and the amount of his wages or
62 earnings, and from time to time make such other reports as
63 they may deem necessary. Any employer who shall wilfully
64 neglect or refuse to make such reports shall be liable to a
65 forfeiture of ten dollars for each day's such wilful neglect
66 or refusal to be enforced by the Commission in an action
67 of debt in the name of the state for the benefit of the Indus-
68 trial Accident Fund.

VII. To require insurance companies to fill out all blanks
70 and answer all questions submitted to them that may relate to
71 policies, premiums, amount of compensation paid, and such
72 other information that the Commission deems important for
73 statistical purposes. Any insurance company which shall
74 refuse to fill such blanks and answer such questions shall be
75 liable to a forfeiture of ten dollars for each day's such re-
76 fusal to be enforced by the Commission in an action of debt
77 in the name of the State for the benefit of the Industrial Ac-
78 cident Fund.

VIII. To make annual return to the Governor and Council with full statistical information and such recommendations as it deems wise.

Sect. 13. I. Any employer desiring to become an assenting employer as herein provided may file with the Commission his written assent in such form as the Commission approves and pay to the Commission such premium as the Commission determines.

II. Any employer desiring to become an assenting employer as herein provided may file with the Commission his written assent in such form as the Commission approves and file with the Commission an Industrial Accident Insurance Policy in such form as the Commission determines.

III. Thereupon, the Commission shall issue to such employer a certificate stating that such employer has conformed to the provisions of this act and setting forth the date to which the premium has been paid, or at which the policy expires. The certificate shall remain in force until such date.

A notice in such form as the Commission approves, stating that the employer has conformed to the provisions of this act and the date to which the premium has been paid, or date of expiration of policy, together with such further matters as the Commission determines shall be posted by the employer and kept posted by him at some place in each of his mills, factories or places of business conspicuous and ac-

24 cessible to his employees. For wilful failure to so post
25 such notices the employer shall be subject to a forfeiture
26 of ten dollars per day for every day of such wilful neglect,
27 which forfeiture may be enforced by the Commission in an
28 action of debt in the name of the state for the benefit of
29 the Industrial Accident Fund. Such failure to so post no-
30 tices shall not, however, affect the rights or liabilities of
31 the employer hereunder.

IV. The Commission may require payment of further
33 premium by any employer in case of mistake or changed
34 conditions, or in case it shall be necessary for the purpose
35 of meeting claims for compensation according to the terms
36 hereof. Any employer who assents to this act and pays
37 premiums to the Industrial Accident Fund as provided by
38 the first paragraph of this section, shall be held to have prom-
39 ised to make such further payment. In case the premium
40 collected shall be more than is necessary to satisfy claims
41 for compensation hereunder, the Commission may in its dis-
42 cretion order a rebate to employers who have paid such ex-
43 cessive premiums. The additional premium to be paid by
44 any employer, as provided in this paragraph, may be recov-
45 ered by the Commission in an action of debt, in behalf of the
56 state, for the benefit of the Industrial Accident Fund.

Sect. 14. There is hereby created a fund to be known as
2 the Industrial Accident Fund, which shall be held by the
3 state treasurer and be by him deposited in such banks or
4 otherwise, as may be authorized by the laws of the state.

5 All moneys received by the Commission shall be paid over
6 forthwith to the state treasurer and become a part of the
7 Industrial Accident Fund.

The state treasurer shall set apart the sum of twenty-five
9 thousand dollars, which shall become a part of the fund.
10 The sum so set apart shall be repaid to the state out of the
11 fund in five equal annual installments, with interest at three
12 and one-half per cent. per annum, payable annually.

The state treasurer, with the approval of the Governor,
14 is authorized to invest such fund, or any part thereof, in
15 any securities which are a legal investment for savings
16 banks under the laws of the State of Maine, and with such
17 approval may sell such securities and apply the proceeds
18 to meet current disbursements as provided hereby.

Payments from such fund shall be made as follows:

At each regular meeting of the Governor and Council the
21 Commission shall present an estimate of the amount neces-
22 sary to pay compensation to become payable before the
23 regular meeting of the Governor and Council, to be held in
24 the next following month.

Whereupon the Governor and Council shall issue its war-
26 rant for such amount, payable to the Industrial Accident
27 Commission. Such estimates and warrants shall specify
28 separately the amounts to be paid from segregated and un-
29 segregated moneys.

The sums received upon such warrants shall be disbursed by
31 the Commission to employees entitled thereto, under this

32 act and shall be accounted for on a monthly account cur-
33 rent, to be filed with the state auditor. Any unused balance
34 shall be covered into the state treasury whenever directed by
35 the Governor and shall become a part of the Industrial Acci-
36 dent Fund.

The state treasurer shall set apart such part of the funds
38 as is necessary to be segregated under the provisions of Sec-
39 tion 12, Paragraph V, and shall keep a separate account of
40 segregated and unsegregated moneys, crediting each with its
41 increment and charging it with the disbursements made on
42 account of it.

Sect. 15. In all legal proceedings herein authorized to be
2 brought by the Commission the attorney general shall repre-
3 sent the state.

Sect. 16. Any employee entitled to compensation or other
2 relief from an Insurance Company, as herein provided, may
3 within one year from time of injury file with the clerk of
4 the supreme judicial court of the county where the claimant
5 resides a copy certified by the secretary of the Commission
6 of (a) a written agreement fixing the amount and time or
7 times of payment of compensation or other relief, signed by
8 the Insurance Company and approved by the Commission,
9 or (b) a finding of such amount and time or times by one
10 member of the Commission, no appeal having been claimed,
11 and the time herein fixed for appealing having elapsed, or
12 (c) a finding of such amounts and time or times by the

13 Commission.

Whereupon the court may issue its decree ordering payment
15 in accordance with such findings and may enforce same by
16 execution, by contempt proceedings or by other appropriate
17 process.

The agreement or finding shall be conclusive as to ques-
19 tions of fact. Questions of law appearing on the record or
20 shown otherwise may be reviewed by the supreme judicial
21 court upon certiorari. In cases where review on legal
22 grounds is asked by the Insurance Company any weekly
23 compensation ordered by the Commission shall not be sus-
24 pended but shall be paid until the court renders its final
25 decision and thereafter continued, modified or terminated as
26 required by the court's final judgment.

Sect. 17. Any employee of an assenting employer shall be
2 subject to the provisions of this act and shall be conclu-
3 sively presumed to have waived and surrendered all rights
4 and remedies against such assenting employer either at com-
5 mon law or under any act other than this act and amend-
6 ments thereof and additions thereto, unless at the beginning
7 of his employment, or before the injury is received, for
8 which compensation is claimed and within fifteen days after
9 the posting of notices, as provided by section 13 of this act,
10 in cases where such posting is required, he voluntarily and
11 without being influenced thereto directly or indirectly by
12 the employer, notifies his employer in writing that he elects

13 not to be subject to the provisions hereof. Employees of a
14 non-assenting contractor or sub-contractor shall for pur-
15 poses of this act be considered the employees of the person
16 (being an assenting employer) in the prosecution of whose
17 trade, business, profession or occupation they are employed.
18 Nothing herein, however, shall release or in any way affect
19 the liability at common law or under any statute of any
20 such non-assenting contractor or sub-contractor.

Sect. 18. An employee of an assenting employer who has
2 given the notice specified in Section 17 hereof shall have no
3 right to compensation under this act, but may maintain an
4 action for damages at common law or under Revised Stat-
5 utes, Chapter 89, Section 9, or under the act of 1909, Chap-
6 ter 258, but such action shall be subject to all defenses to
7 which it would be subject if this act had not been passed.

Sect. 19. This act is intended to be compulsory as to the
2 state, counties and cities. It shall be the duty of the Gov-
3 ernor and Council in behalf of the state, county commission-
4 ers in behalf of their respective counties, and in behalf of
5 their respective municipalities the mayor and aldermen of
6 cities and the selectmen of such towns as vote to accept the
7 provisions of this act to direct the taking of such action and
8 the payment of such premiums as is necessary to conform
9 to Section 13 hereof. And it shall be the duty of the treas-
10 urers of the state, counties, cities and such towns to take such
11 action and make such payments. The state, counties and

12 cities shall be exempt from the duty of posting notices re-
13 quired by Section 13 hereof.

Sect. 20. This act shall not apply to any injury received
2 by any employee prior to January first, 1916. The rights
3 and remedies existing under any law other than this act shall
4 remain in full force with reference to such injury.

Sect. 21. All acts and parts of acts inconsistent herewith
2 are hereby repealed.

Sect. 22. This act shall, subject to the provisions of the
2 Constitution of Maine, take effect as follows:

Section 11 shall take effect ninety days after the recess of
4 the Legislature.

Section 14 and Paragraph I of Section 13 shall take effect
6 any time on or after January first, 1916, upon the following
7 conditions:

Whenever five or more employers, regularly employing
9 three thousand or more employees, shall file with the Gov-
10 ernor their request that the State assume the administration
11 of the Industrial Accident Fund hereby created, the Gov-
12 ernor, if satisfied that such request conforms to this condi-
13 tion, shall issue his proclamation therein fixing a date for
14 such provisions to become operative and at the date thus
15 fixed said Section 14 and Paragraph I of Section 13 shall
16 go into effect.

The other sections and paragraphs hereof shall take effect on
18 January first, 1916.