

# MAINE STATE LEGISLATURE

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SEVENTY-EIGHTH LEGISLATURE

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HOUSE

NO. 225

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*House of Representatives, Feb. 9, 1917.*

*Referred to Committee on Mercantile Affairs and Insurance  
and five hundred copies ordered printed. Sent up for concur-  
rence.*

*W. R. ROIX, Clerk.*

*Presented by Mr. Buzzell of Belfast.*

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STATE OF MAINE

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

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AN ACT amendatory of and additional to Chapter Fifty of the  
Revised Statutes of Nineteen Hundred and Sixteen, entitled  
"The Workmen's Compensation Act."

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

Section I. Article two of Section one of Chapter fifty of  
2 the Revised Statutes of nineteen hundred and sixteen is  
3 hereby amended so as to read as follows:

"II. "Employee" shall include every person in the service  
2 of another under contract of hire, express or implied, oral  
3 or written, except: (a) farm laborers; (b) domestic serv-

4 ants; (c) masters of and seamen on vessels engaged in  
5 interstate or foreign commerce; (d) officials of the state,  
6 counties, cities, towns or water districts and other quasi  
7 municipal corporations of a similar character. Policemen  
8 and firemen shall be deemed employees within the meaning  
9 of this act. If, however, any policeman or fireman claims  
10 compensation under this act, there shall be deducted from  
11 such compensation any sum which such policeman, fireman,  
12 or other person may be entitled to receive for any pension  
13 or other benefit fund to which the state or municipal body  
14 may contribute. Any reference to an employee who has  
15 been injured shall, when the employee is dead, also include  
16 his legal representatives, dependents and other persons to  
17 whom compensation may be payable.'

Sect. 2. Article nine of Section one of Chapter fifty of  
2 the Revised Statutes of nineteen hundred and sixteen is  
3 hereby amended to read as follows:

'IX. "Average weekly wages, earnings or salary," of an  
2 injured employee shall be computed as follows:

(a) The average weekly wages, earnings or salary shall  
2 be determined by first establishing the average daily wage,  
3 earnings or salary and multiplying the average daily wage,  
4 earnings or salary by the number of days constituting a  
5 week in the employment at the time of injury. The average  
6 daily wage, earnings or salary of an injured employee shall  
7 be determined by dividing the total amount earned covering  
8 a period not exceeding three months preceeding the date of

9 injury by the number of days actually employed in said  
10 employment and, when the employee is employed concur-  
11 rently by two or more employers for one of whom he works  
12 at one time and for another he works at another time, his  
13 “average weekly wages” shall be computed as if the wages,  
14 earnings or salary received by him from all such employers  
15 were wages, earnings or salary earned in the employment of  
16 the employer for whom he was working at the time of the  
17 accident.

(b) If the injured employee has not worked in the same  
2 employment during substantially the whole of the three  
3 months preceeding the accident, his daily wage shall be de-  
4 termined by taking the daily wage which an employee of the  
5 same class working substantially the whole of such imme-  
6 diately preceeding three months in the same or similar em-  
7 ployment in the same or neighboring place, has earned in  
8 such employment during the days so employed.

(c) But where there is a standard fixed daily or weekly  
2 wage, earnings or salary established for the employee, this  
3 standard fixed daily or weekly wage, earnings or salary,  
4 shall be the wage from which compensation shall be com-  
5 puted. In cases where the foregoing methods of arriving  
6 at the average weekly wages, earnings or salary, of the in-  
7 jured employee can not reasonably and fairly be applied,  
8 such weekly wages shall be taken at such sum as shall rea-  
9 sonably represent the weekly earning capacity of the injured  
10 employee at the time of the accident, in the employment  
11 at which he was working at such time.

(d) Where the employer has been accustomed to pay  
2 the employee a sum to cover any special expense incurred  
3 by said employee by the nature of his employment, the sum  
4 so paid shall not be reckoned as part of the employee's  
5 wages, earnings or salary.

(e) The fact that an employee has suffered a previous  
2 injury or received compensation therefor, shall not preclude  
3 compensation for a later injury or for death; but in de-  
4 termining the compensation for the later injury or death,  
5 his "average weekly wages" shall be such sum as will rea-  
6 sonably represent his weekly earning capacity at the time  
7 of the injury, in the employment in which he was working  
8 at such time, and shall be arrived at according to and sub-  
9 ject to the limitations of the previous provisions of this  
10 section.

In the sections of this act relating to notices and pro-  
2 cedure, all powers and rights granted to, or duties and  
3 obligations imposed upon employers or employees, shall  
4 inure to the benefit of and may be exercised by guardians  
5 of minors or other incapacitated persons and the legal repre-  
6 sentatives of deceased persons.'

Sect. 3. Article one of Section six of Chapter fifty of  
2 the Revised Statutes is hereby amended to read as follows:

'I. Any employer desiring to become an assenting em-  
2 ployer as herein provided, may file with the Commission at  
3 its office in Augusta his written assent in such form as the  
4 Commission approves, and also file with said Commission

5 a copy of an industrial accident insurance policy in any stock  
6 or mutual insurance company or association authorized to  
7 do business in the State of Maine, said policy being stamped  
8 with the approval of the Insurance Commissioner of said  
9 State of Maine.

If said assenting employer shall choose to cancel his in-  
2 dustrial accident policy before the expiration of the term  
3 of said policy, he shall cause notice of such cancellation to  
4 be given to the Industrial Accident Commission at its office  
5 in Augusta, and also to his employees, at least ten days be-  
6 fore such cancellation.

Any insurance company issuing policies covering the pay-  
2 ment of compensation provided for in this act shall file with  
3 the Insurance Commissioner a copy of the form thereof,  
4 and no such policy shall be issued until said Insurance Com-  
5 missioner has approved the same. Every such insurance  
6 company shall file with the Insurance Department its classi-  
7 fication of risks and premiums relating thereto, and any  
8 subsequent proposed classifications or premiums, none of  
9 which shall take effect until the Insurance Commissioner  
10 has approved the same as adequate for the risks to which  
11 they respectively apply. The Insurance Commissioner may  
12 withdraw his approval of any classification of risks or  
13 premium rates relating thereto, and he may at any time ap-  
14 prove a revised classification of risks and premium rates  
15 relating thereto.'

Sect. 4. Section nine of Chapter fifty of the Revised Statutes is hereby amended to read as follows:

‘No compensation except as provided by Section ten of this act shall be paid under this act for any injury which does not incapacitate the employee for a period of at least one week from earning full wages, but, if such incapacity extends beyond the period of one week, compensation shall begin on the eighth day after the injury.’

Sect. 5. Section ten Chapter fifty of the Revised Statutes is hereby amended to read as follows:

‘During the first two weeks after the injury the employer shall furnish reasonable medical and hospital services, and medicines when they are needed, but the amount of the charges for such services and medicines shall not exceed the sum of thirty dollars, unless in case of major surgical operations being required, and the employer and employee being unable to agree upon the same, the amount to be allowed for such medical services or medicines shall be fixed by the Commission upon petition by either party setting forth the facts.

The Commission is hereby empowered to employ a consulting physician and surgeon at a salary not exceeding one thousand dollars per year, who shall be a resident of Augusta, whose duty it shall be to furnish all necessary medical and surgical advice and to determine for the Commission what constitutes a major operation.’

Sect. 6. Section twelve Chapter fifty of the Revised Statutes is hereby amended to read as follows:

If death results from the injury, the employer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of his injury a weekly payment equal to two-thirds his average weekly wages, earnings, or salary, but not more than ten dollars nor less than four dollars a week, for a period of five hundred weeks from the date of the injury; provided, however, that if the dependent of the employee to whom the compensation shall be payable upon his death is the widow of such employee, upon her death the compensation thereafter payable under this act shall be paid to the child or children of the deceased employee, including adopted and step-children, under the age of eighteen years, or over said age but physically or mentally incapacitated from earning, who are dependent upon the widow at the time of her death. In case there is more than one child thus dependent, the compensation shall be divided equally among them. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury, the employer shall pay such dependents for a period of five hundred weeks from the date of the injury a weekly compensation equal to the same proportion of the weekly payments herein provided for the benefit of persons wholly dependent as the amount contributed annually by the employee to such partial dependents bears to the annual earnings of the deceased at the time of the injury.



When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than five hundred weeks from the date of the injury. Provided, however, that if the deceased leaves no dependents at the time of the injury, the employer shall not be liable to pay compensation under this act except as specifically provided in the following section.'

Sect. 7. Section fourteen Chapter fifty of the Revised Statutes is hereby amended to read as follows:

'While the incapacity for work resulting from the injury is total, the employer shall pay the injured employee a weekly compensation equal to two-thirds his average weekly wages, earnings or salary, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks from the date of the injury, nor the amount more than four thousand dollars. In the following cases it shall, for the purposes of this act, be conclusively presumed that the injury resulted in permanent total disability, to wit: The total and irrevocable loss of both eyes, the loss of both feet at or above the ankle, the loss of both hands at or above the wrist, the loss of one hand and one foot, an injury to the spine resulting in permanent and complete paralysis of the legs or arms, and an injury to the skull resulting in incurable imbecility or insanity.'

Sect. 8. Section fifteen Chapter fifty of the Revised Statutes is hereby amended to read as follows:

'While the incapacity for work resulting from injury is  
2 partial, the employer shall pay the injured employee a  
3 weekly compensation equal to two-thirds the difference be-  
4 between his average weekly wages, earnings or salary, be-  
5 fore the injury and the average weekly wages, earnings or  
6 salary which he is able to earn thereafter, but not more  
7 than ten dollars a week; and in no case shall the period  
8 covered by such compensation be greater than five hundred  
9 weeks from the date of the injury.'

Sect. 9. Section sixteen Chapter fifty of the Revised  
2 Statutes is hereby amended to read as follows:

'In cases included in the following schedule the disability  
2 in each case shall be deemed to be total for the period speci-  
3 fied and after such specified period, if there be a partial  
4 incapacity for work resulting from the injury specified, the  
5 employee shall receive compensation while such partial in-  
6 capacity continues under the provisions of Section fifteen,  
7 but in no such case shall compensation continue more than  
8 five hundred weeks after the injury. The compensation  
9 to be paid for the injuries hereinafter specified shall be as  
10 follows, to wit:

For the loss of a thumb, two-thirds the average weekly  
2 wages during fifty weeks.

For the loss of the first finger, commonly called the index  
2 finger, two-thirds the average weekly wages during thirty  
3 weeks.

For the loss of the second finger, two-thirds the average  
2 weekly wages during twenty-five weeks.

For the loss of the third finger, two-thirds the average  
2 weekly wages during eighteen weeks.

For the loss of the fourth finger, commonly called the little  
2 finger, two-thirds the average weekly wages during fifteen  
3 weeks.

The loss of the first phalange of the thumb or of any  
2 finger, shall be considered to be equal to the loss of one half  
3 of said thumb or finger, and the compensation shall be two-  
4 thirds the amount above specified. The loss of more than  
5 one phalange shall be considered as a loss of the entire  
6 thumb or finger; provided, however, that in no case shall  
7 the amount received for the loss of more than one finger  
8 exceed the amount specified in this schedule for the loss  
9 of a hand.

For the loss of the great toe, two-thirds the average weekly  
2 wages during twenty-five weeks.

For the loss of one of the toes other than the great toe,  
2 two-thirds the average weekly wages during ten weeks.

The loss of the first phalange of any toe shall be considered  
2 to be equal to the loss of one-half of said toe and the com-  
3 pensation shall be two-thirds of the amount above specified.

The loss of more than one phalange shall be considered as  
2 the loss of the entire toe.

For the loss of a hand, two-thirds the average weekly wages  
2 during one hundred twenty-five weeks.

For the loss of an arm, or any part thereof above the wrist,  
2 two-thirds the average weekly wages during one hundred  
3 fifty weeks.

For the loss of a leg, or any part thereof above the ankle,  
2 two-thirds the average weekly wages during one hundred  
3 fifty weeks.

For the loss of a foot, two-thirds the average weekly wages  
2 for one hundred twenty-five weeks.

For the loss of an eye or the reduction of the sight of an  
2 eye, with glasses, to one-tenth of the normal vision, two-  
3 thirds the average weekly wages during one hundred weeks.

For the loss of a fractional part of the first phalange of the  
2 thumb or any finger or fingers, the commission shall make an  
3 award for compensation which shall be in proportion to the  
4 loss of the whole phalange.

For the loss of any part of the hand between the base of the  
2 fingers and wrist, or the loss of any part of the foot between  
3 the base of the toes and the ankle, the commissioners may  
4 make an award for compensation in addition to the amount  
5 specified for the loss of fingers or toes but not to exceed in  
6 any case the amounts allowed for the loss of the hand or  
7 foot.

It is also provided that, when any member becomes par-  
2 alyzed or useless from an injury received in the course of  
3 employment, the employee shall receive compensation for the  
4 total loss of said member.

The commission may award additional compensation for  
2 the loss of a member by amputation when septic poisoning  
3 results therefrom.

The amounts specified in this section are all subject to the

2 same limitations as to maximum and minimum amounts, that  
3 is, of not more than ten dollars and not less than four dollars  
4 a week, as provided for total or partial disability.'

Sect. 10. Section eighteen of Chapter fifty of the Revised  
2 Statutes of nineteen hundred and sixteen is hereby amended  
3 to read as follows:

'Such notice may or may not be in writing, but shall intelli-  
2 gently convey the nature, time, and cause of the injury and  
3 the name and address of the person injured. Said notice  
4 may be given by the injured person, his friend, fellow  
5 employee, or agent, and, in case of death, by his legal repre-  
6 sentatives, dependent, or by any person in behalf of either,  
7 and said notice shall be valid to all the intents and purposes  
8 of the Workmen's Compensation Act if given to any officer,  
9 agent, superintendent, or foreman of the employer. And in  
10 all cases where it is apparent that disability will extend be-  
11 yond a period of fourteen days an agreement for compensa-  
12 tion shall be drawn up, signed and forwarded to the Indus-  
13 trial Accident Commission at Augusta for approval before  
14 twenty-one days from the date of injury have elapsed.'