

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

S. P. No. 429

S. D. No. 195

In Senate, March 11, 1925.

Taken from the table and on motion by Senator Smith of Somerset, referred to Committees on Judiciary and Labor jointly. Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Smith of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE

AN ACT to Amend Chapter Two Hundred and Thirty-eight of the Public Laws of Nineteen Hundred and Nineteen, as Amended by Chapter Two Hundred and Twenty-two of the Public Laws of Nineteen Hundred and Twenty-one, Relating to Workmen's Compensation.

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

Section 1. Sub-section II of section one of chapter two
2 hundred and thirty-eight of the public laws of nineteen
3 hundred and nineteen is hereby amended by striking out
4 in the third line thereof the words "(a) farm laborers;
5 (b) domestic servants"; so that said sub-section as amend-

6 ed, with the remaining clauses relettered, shall read as fol-
7 lows:

‘II. “Employee” shall include every person in the service
2 of another under any contract of hire, express or implied,
3 oral or written, except: (a) masters of and seaman on
4 vessels engaged in interstate or foreign commerce; (b) per-
5 son whose employment is but casual, or is not in the usual
6 course of the trade, business, profession or occupation of
7 his employer; (c) officials of the state, counties, cities,
8 towns or water districts and other quasi-municipal corpo-
9 rations of a similar character. Policemen and firemen shall
10 be deemed employees within the meaning of this act. If,
11 however, any policeman or fireman claims compensation un-
12 der this act, there shall be deducted from such compensa-
13 tion any sum which such policeman, fireman or other per-
14 son may be entitled to receive from any pension or other
15 benefit fund to which the state or municipal body may con-
16 tribute; except that any town or city may, in lieu of the
17 compensation and insurance provided by this act, continue
18 any member of the fire department or police force in said
19 town, who may have been injured in the course of his du-
20 ties, on the payroll at full pay, if such full pay exceeds the
21 maximum compensation provided for employees under this
22 act. Any reference to any employee who has been injured
23 shall, when the employee is dead, also include his legal rep-
24 resentatives, dependents and other persons to whom com-
25 pensation may be payable. All persons employed by the

26 state or under the direction and control of any department
27 of the state shall be entitled to the benefits of chapter fifty
28 of the revised statutes. The governor and council shall
29 order such compensation as shall be assessed, paid from the
30 state contingent fund.'

Sect. 2. Section four of chapter two hundred and thirty-
2 eight of the public laws of nineteen hundred and nineteen
3 is hereby amended by striking out in the fifth and sixth
4 lines thereof the words: "or in the work of cutting, haul-
5 ing, rafting or driving logs"; so that said section as amend-
6 ed shall read as follows:

'Sect. 4. The provisions of section two shall not apply
2 to actions to recover damages for personal injuries or for
3 death resulting from personal injuries sustained by em-
4 ployees engaged in domestic service or agriculture.'

Sect. 3. Section twelve of chapter two hundred and thirty-
2 eight of the public laws of nineteen hundred and nineteen,
3 as amended by chapter two hundred and twenty-two of the
4 public laws of nineteen hundred and twenty-one, is hereby
5 further amended by striking out in the fourth line thereof
6 the word "sixteen" and inserting in place thereof the word
7 'twenty,' so that said section as amended shall read as fol-
8 lows:

'Sect. 12. If death results from the injury, the employer
2 shall pay the dependents of the employee, wholly dependent
3 upon his earnings for support at the time of his injury,
4 a weekly payment equal to two-thirds his average weekly

5 wages, earnings or salary, but not more than twenty dol-
6 lars nor less than six dollars a week, for a period of three
7 hundred weeks from the date of the injury, and in no case
8 to exceed four thousand dollars; provided, however, that
9 if the dependent of the employee to whom the compensa-
10 tion shall be payable upon his death is the widow of such
11 employee, upon her death or remarriage the compensation
12 thereafter payable under this act shall be paid to the child
13 or children of the deceased employee, including adopted and
14 step-children, under the age of eighteen years, or over said
15 age, but physically or mentally incapacitated from earning,
16 who are dependent upon the widow at the time of her death
17 or remarriage. In case there is more than one child thus
18 dependent, the compensation shall be divided equally among
19 them. If the employee leaves dependents only partly de-
20 pendent upon his earnings for support at the time of his
21 injury, the employer shall pay such dependents for a period
22 of three hundred weeks from the date of injury, a weekly
23 compensation equal to the same proportion of the weekly
24 payments herein provided for the benefit of persons wholly
25 dependent as the amount contributed annually by the em-
26 ployee to such partial dependents bears to the annual earn-
27 ings of the deceased at the time of the injury. When week-
28 ly payments have been made to an injured employee before
29 his death, the compensation to dependents shall begin from
30 the date of the last of such payments, but shall not con-
31 tinue more than three hundred weeks from the date of the

32 injury. Provided, however, that if the deceased leaves no
33 dependents at the time of the injury the employer shall not
34 be liable to pay compensation under this act except as spe-
35 cifically provided in the following section.'

Sect. 4. Section fourteen of chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen, as amended by chapter two hundred and twenty-two
4 of the public laws of nineteen hundred and twenty-one, is
5 hereby further amended by striking out in the fourth line
6 thereof the word "sixteen" and inserting in place thereof
7 the word 'twenty,' so that said section as amended shall
8 read as follows:

'Sect. 14. While the incapacity for work resulting from
2 the injury is total, the employer shall pay the injured em-
3 ployee a weekly compensation equal to two-thirds his aver-
4 age weekly wages, earnings or salary, but not more than
5 twenty dollars nor less than six dollars a week; and in
6 no case shall the period covered by such compensation be
7 greater than five hundred weeks from the date of inca-
8 pacity, nor the amount more than six thousand dollars; and
9 if the employee shall die before having received compen-
10 sation to which he is entitled or which he is receiving as
11 provided in this act, the same shall be payable to the de-
12 pendants of the said employee for the specified period, and
13 the said dependents shall have the same rights and powers
14 under this act as the said employee would have had if he
15 had lived. In the following cases it shall, for the purposes

16 of this act, be conclusively presumed that the injury re-
17 sulted in permanent total disability, to wit: The total and
18 irrevocable loss of sight in both eyes, the loss of both feet
19 at or above the ankle, the loss of both hands at or above
20 the wrist, the loss of one hand and one foot, an injury to
21 the spine resulting in permanent and complete paralysis of
22 the legs or arms, and an injury to the skull resulting in
23 incurable imbecility or insanity.'

Sect. 5. Section fifteen of chapter two hundred and thirty-
2 eight of the public laws of nineteen hundred and nineteen,
3 as amended by chapter two hundred and twenty-two of the
4 public laws of nineteen hundred and twenty-one, is hereby
5 further amended by striking out in the sixth line thereof
6 the word "sixteen" and inserting in place thereof the word
7 'twenty,' so that said section as amended shall read as fol-
8 lows:

'Sect. 15. While the incapacity for work resulting from
2 the injury is partial, the employer shall pay the injured em-
3 ployee a weekly compensation equal to two-thirds the dif-
4 ference between his weekly wages, earnings or salary, be-
5 fore the injury and the weekly wages, earnings or salary
6 which he is able to earn thereafter, but not more than twenty
7 dollars a week; and in no case shall the period covered by
8 such compensation be greater than three hundred weeks
9 from the date of the injury. The rate of wages before the
10 injury shall be determined by dividing the whole amount
11 of wages or salary earned by the injured employee during

12 the immediately preceding year, whether for the same em-
13 ployer or not, by the full number of days employed during
14 the same period, provided the injured employee has worked
15 substantially the whole of the immediately preceding year
16 at similar work. If the employee has not so worked, the
17 weekly wages, earnings or salary of an employee working
18 substantially the whole of such immediately preceding year
19 at similar work shall be used in determining the amount of
20 partial compensation due the injured employee.'

Sect. 6. Paragraph seventeen of section sixteen of chap-
2 ter two hundred and thirty-eight of the public laws of nine-
3 teen hundred and nineteen, as amended by chapter two hun-
4 dred and twenty-two of the public laws of nineteen hun-
5 dred and twenty-one, is hereby further amended by striking
6 out in the third line thereof the word "sixteen" and insert-
7 ing in place thereof the word 'twenty'; so that said para-
8 graph as amended shall read as follows:

'The amounts specified in this section are all subject to
2 the same limitations as to maximum and minimum amounts,
3 that is, of not more than twenty and not less than six dol-
4 lars a week, as provided for total or partial disability.'

Sect. 7. Section thirteen of chapter two hundred and
2 thirty-eight of the public laws of nineteen hundred and nine-
3 teen is hereby amended by striking out the words "last sick-
4 ness and" in the fourth and ninth lines thereof, and adding
5 thereto the following paragraph:

'An employee who as a result of injury is or may be ex-

2 pected to be totally or partially incapacitated for a remuner-
3 ative occupation and who under the direction of the state
4 board of vocational education is being rendered fit to en-
5 gage in a remunerative occupation, shall receive additional
6 compensation necessary for his maintenance during the
7 period of rehabilitation; but such additional compensation
8 shall not exceed ten dollars a week. The expense shall be
9 paid out of a special fund created in the following manner:
10 The employer or insurance carrier shall pay to the state
11 treasurer for every case of injury causing death, in which
12 there are no persons entitled to compensation, the sum of
13 five hundred dollars. The state treasurer shall be the cus-
14 todian of this special fund and the industrial accident com-
15 mission shall direct the distribution thereof,' so that said
16 section as amended shall read as follows:

'Sect. 13. If the employee dies as a result of the injury,
2 leaving no dependents at the time of the injury, the em-
3 ployer shall pay in addition to any compensation provided
4 for in this act, the reasonable expense of his burial, which
5 shall not exceed two hundred dollars. Provided, however,
6 if dependents appear before the commission within one year
7 after the death of the said employee, and prove that they
8 are entitled to compensation as provided for by this act,
9 and such compensation is decreed to be paid to the said
10 dependents, the reasonable expenses of burial as aforesaid
11 shall be deducted from the amount allowed to the said de-
12 pendants.

‘An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who under the direction of the state board of vocational education is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance during the period of rehabilitation; but such additional compensation shall not exceed ten dollars a week. The expense shall be paid out of a special fund created in the following manner: The employer or insurance carrier shall pay to the state treasurer for every case of injury causing death, in which there are no persons entitled to compensation, the sum of five hundred dollars. The state treasurer shall be the custodian of this special fund and the industrial accident commission shall direct the distribution thereof.’