

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 618**

S. P. 373.

In Senate, February 11, 1941.

Referred to Committee on Judiciary and 1000 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Farris of Kennebec.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FORTY-ONE

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**AN ACT to Make Compulsory the Workmen's Compensation Act.**

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

**Sec. 1. R. S., c. 55, § 2, ¶ II, amended.** Paragraph II of section 2 of chapter 55 of the revised statutes, as amended by chapter 276 of the public laws of 1939, is hereby further amended to read as follows:

**¶II. Employee.** "Employee" shall include every person in the service of another under any contract of hire, express or implied, oral or written, except: ~~(a) persons engaged in maritime employment, or in interstate or foreign commerce, who are within the exclusive jurisdiction of admiralty law or the laws of the United States;~~ ~~(b)~~ (a) masters of and seamen on vessels engaged in interstate or foreign commerce; (b) persons included under the federal Longshoremen's and Harbor Workers' Compensation Act; (c) employees of interstate common carriers; (d) any person whose employment is not in the usual course of the business, profession, trade or occupation of his employer. Policemen and firemen shall be deemed employees within the meaning of this act. Employers who hire workmen within this state to work outside the state, may agree with such workmen that the remedies under this act shall be exclusive as regards injuries received outside this state by accident arising out of and in the course of such employment; and all contracts of hiring in this state, unless

otherwise specified, shall be presumed to include such agreement. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents, and other persons to whom compensation may be payable.'

**Sec. 2. R. S., c. 55, § 2, ¶ III, amended.** Paragraph III of section 2 of chapter 55 of the revised statutes is hereby repealed, and in place thereof is substituted the following:

**‘III. Employer under act. “Employer under the act” shall include all employers as above defined to whom sections 3 or 4 hereof are applicable.’**

**Sec. 3. R. S., c. 55, § 3, amended.** Section 3 of chapter 55 of the revised statutes is hereby repealed, and in place thereof is substituted the following:

**‘Sec. 3. All employers with certain exceptions under act. This act shall be compulsory as to all public employers as defined in paragraph I of section 2 hereof; and also as to all private employers who employ regularly four or more workmen or operatives exclusive of employees engaged in domestic service or in agriculture, or in the operations of cutting, hauling, rafting or driving logs or in work incidental thereto. Such private employers shall comply with the provisions of section 6 hereof, but public employers shall be exempt from the requirements of said section.’**

**Sec. 4. R. S., c. 55, § 4, amended.** Section 4 of chapter 55 of the revised statutes, as amended by chapter 225 of the public laws of 1931, is hereby repealed, and in place thereof is substituted the following:

**‘Sec. 4. Exempted employers may assent to act. Private employers who employ less than 4 workmen or operatives regularly, or employees engaged in domestic service or in agriculture, or in the operations of cutting, hauling, rafting or driving logs or in work incidental thereto, may bring such employees under this act by assenting thereto. Such assent upon the part of an employer shall be signified by filing with the commission a copy of an industrial accident insurance policy or by becoming a self-insurer as provided by said section 6, and to remain in force only during compliance with said section.’**

**Sec. 5. R. S., c. 55, § 5, amended.** Section 5 of chapter 55 of the revised statutes is hereby repealed, and in place thereof is substituted the following:

**‘Sec. 5. Employers under act exempt from other suits. Public employers under the act, and private employers who have complied with the provisions of section 6 aforesaid, shall not be liable, except as hereinafter provided by section 7, in any action to recover damages for personal in-**

juries sustained by an employee by accident arising out of and in the course of his employment, or for death resulting from such injuries; but they shall be exempt from suits because of such injuries either at common law or under section 9 of chapter 101, or under sections 48 to 56, both inclusive, of this chapter.

In case, however, of such injuries to an employee of a private employer included under section 3 hereof who has not complied with the provisions of said section 6, the employee may claim compensation from the employer as provided in this act or he may bring suit at his election; and if he brings suit, it shall not be a defense to the employer (a) that the employee was negligent; (b) that the injury was caused by the negligence of a fellow employee; (c) that the employee has assumed the risk of the injury.'

**Sec. 6. R. S., c. 55, § 6, ¶ I, amended.** Paragraph I of section 6 of chapter 55 of the revised statutes is hereby repealed, and in place thereof is substituted the following:

**'I. Filing of copy of insurance policy by employer under act.** Any private employer under the act by virtue of section 3 hereof, or who under section 4 elects to come thereunder, shall except as otherwise provided file with the commission at its office in Augusta a copy of an industrial accident insurance policy in form approved by the insurance commissioner; such policy if found correct in all respects to be stamped with his approval. Any policy during its life shall operate as a compliance with the provisions of this section only so long as a copy thereof is on file with the commission.'

**Sec. 7. R. S., c. 55, § 6, ¶ III, amended.** Paragraph III of section 6 of chapter 55 of the revised statutes is hereby amended to read as follows:

**'III. Employer may become self-insurer by filing securities.** Any private employer desiring to become ~~an assenting employer~~ as a self-insurer may, in lieu of filing an insurance policy as above provided, furnish satisfactory proof to the commission of his solvency and financial ability to pay the compensation and benefits herein provided, and also deposit cash, satisfactory securities or a surety bond, in such sum as the commission may determine; such bond to run to the treasurer of state and his successor in office, and to be conditional upon the faithful performance of all the provisions of this act relating to the payment of compensation and benefits to any injured employee. In case of cash being deposited it shall be placed at interest by the treasurer of state, and the accumulation of interest on said cash or securities so deposited shall be paid to the employer depositing the same. Provided, however, that the commission may at any time in its dis-

cretion deny to ~~an assenting~~ **any** employer the right to continue in the exercise of the option granted by this paragraph.'

**Sec. 8. R. S., c. 55, § 6, ¶ IV, amended.** Paragraph IV of section 6 of chapter 55 of the revised statutes is hereby amended to read as follows:

**IV. Certificate to employer under act.** Upon ~~the filing of such assent and~~ complying with the provisions of paragraph I or III of this section, the commission shall issue to such employer a certificate stating that said employer has conformed to the provisions of this act, and setting forth the date on which the ~~policy filed under paragraph I~~ **insurance policy or surety bond** expires. The certificate thus issued shall remain in full force until the date of expiration of such policy or ~~renewal thereof; or until the employer shall notify the commission that he withdraws his assent or has canceled such policy;~~ **surety bond; or until the commission receives notice that such policy or surety bond is canceled;** or until a certificate issued to a self-insuring employer under paragraph III is withdrawn by the commission, or such employer files an industrial accident insurance policy in place of the securities so deposited by him.'

**Sec. 9. R. S., c. 55, § 7, amended.** The 1st paragraph of section 7 of chapter 55 of the revised statutes is hereby amended to read as follows:

'An employee of an employer **under the act** who shall have ~~assented to become subject to~~ **complied with** the provisions of ~~this act thereof~~ as provided in the preceding ~~section~~ **sections**, shall be held to have waived his right of action at common law to recover damages for the injuries aforesaid sustained by him, also under the statutes specified in section 5 hereof, if he shall not have given his employer at the time of his contract of hire notice in writing that he claimed such right, and within 10 days thereafter have filed a copy thereof with the commission; or, if the contract of hire was made before the employer ~~so elected~~ **complied with the act**, if the employee within 10 days after knowledge by him of such ~~assent~~ **compliance** shall not have given said notice and filed a copy thereof with the commission as above provided. Such waiver of common law and statutory rights shall continue in force for the term of one year, and thereafter without further act on his part for successive terms of one year each, unless the employee shall at least 60 days prior to the expiration of such first or any succeeding year, give his employer notice of claim of such rights and file a copy thereof with the commission as aforesaid.'

**Sec. 10. R. S., c. 55, § 8, amended.** Section 8 of chapter 55 of the revised statutes is hereby repealed, and in place thereof is substituted the following:

'Sec. 8. Employee under act, injured by accident, entitled to compensation. If an employee, except as provided by the preceding section, of an employer under the act receives a personal injury by accident arising out of and in the course of his employment, he shall be paid compensation and furnished medical and other services by said employer as hereinafter provided.'