

MAINE STATE LEGISLATURE

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N I N E T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 35

S. P. 37

In Senate, January 15, 1959.

The President laid before the Senate and was referred to the Committee on Labor, sent down for concurrence and was ordered printed.

CHESTER T. WINSLOW, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-NINE

AN ACT Relating to Workmen's Compensation Insurance.

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

Sec. 1. R. S., c. 31, § 2, sub-§§ II, III, VI, amended. Subsection II, as amended by chapter 282 of the public laws of 1955, and subsections III and VI of section 2 of chapter 31 of the Revised Statutes are hereby amended to read as follows:

II. Employee. "Employee" shall include officials of the State, counties, cities, towns which have accepted the provisions of this Act, water districts and all other quasi-municipal corporations of a similar character, **every duly elected or appointed executive officer of a private corporation, other than a charitable, religious, educational or other non-profit corporation**, and 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. 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 ~~the provisions of~~ 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.

Notwithstanding any other provision of this Act, any charitable, religious, educational or other non-profit corporation that may be or become an assenting employer under this Act, may cause any duly elected or appointed executive officer to be an employee of such corporation by specifically including such executive officer among those to whom such corporation secures payment of compensation in conformity with section 6; and such executive officer shall remain an employee of such corporation under this Act while such payment is so secured. With respect to any such corporation that secures compensation by making a contract of industrial accident insurance, specific inclusion of such executive officer in such contract shall cause such officer to be an employee of such corporation under this Act.'

'III. Assenting employer. "Assenting employer" shall include all private employers who have ~~complied~~ **become assenting employers in accordance** with the provisions of section 6 ~~and to whom a certificate authorized by said section has been issued, but only so long as such certificate remains in force~~ **It** hereof, and it shall also include all towns voting to accept the provisions of the Act. This Act shall be compulsory as to the State, counties, cities, water districts and all other quasi-municipal corporations of a similar nature; but the provisions of said section 6 shall not apply thereto or to assenting towns.'

'VI. Insurance company. "Insurance Company" shall mean any casualty insurance company or association authorized to do business in this State which may issue policies conforming to the provisions of ~~the preceding~~ subsection V. Whenever in this Act relating to procedure the words "insurance company" are used they shall apply only to cases in which the employer has elected to ~~file such policy~~ **secure the payment of compensation and other benefits herein provided by insuring such payment under an industrial accident insurance policy**, instead of furnishing satisfactory proof of his ability to pay compensation and benefits ~~hereinafter provided~~ direct to his employees.'

Sec. 2. R. S., c. 31, § 4, amended. The last sentence of section 4 of chapter 31 of the Revised Statutes is hereby repealed, as follows:

~~'Any such logging operations, however, incidental to any business conducted by an assenting employer shall be presumed to be covered by his assent to the act as to such business unless expressly excluded in such assent.'~~

Sec. 3. R. S., c. 31, § 5, amended. Section 5 of chapter 31 of the Revised Statutes is hereby amended to read as follows:

'Sec. 5. Section 3 not applicable to assenting employers; such employers exempt from other suits. The provisions of section 3 shall also not apply to actions to recover damages for the injuries aforesaid, or for death resulting from such injuries, sustained by employees of an employer who has ~~assented~~ become subject to the provisions of this Act. ~~If an employer at the time of so assenting is engaged in two or more independent businesses, he shall be held to come under the provisions of the act only as to the business or businesses~~

specified in his assent. Assenting employers, except as hereinafter provided by section 7, shall be exempt from suits because of such injuries either at common law or under the provisions of section 9 of chapter 165, or under the provisions of sections 48 to 55, inclusive, of this chapter.'

Sec. 4. R. S., c. 31, § 6, sub-§ I, repealed and replaced. Subsection I of section 6 of chapter 31 of the Revised Statutes is hereby repealed and the following enacted in place thereof:

'I. Employer may become assenting employer by filing written assent and insurance policy. Every private employer subject to the provisions of section 3 shall be conclusively presumed to be an assenting employer as herein provided with respect to employees other than those engaged in domestic service or in agriculture, or in the operations of cutting, hauling, rafting or driving logs, including work incidental thereto, unless such private employer shall have filed with the Commission at its office in Augusta written notice in such form as the Commission approves that such private employer elects not to become an assenting employer hereunder. Any employer whose assent is thus presumed may cease to be an assenting employer effective upon the first day of any month, provided, said employer gives to the Commission at its office in Augusta written notice in such form as the Commission approves, not less than 30 days prior to the date on which said employer desires his election to cease to be an assenting employer to become effective; and provided further, that said employer shall post in conspicuous places in his several places of employment written or printed notices to the effect that on and after the first day of the month upon which such election shall become effective, said employer will not be subject to the provisions of this Act, which notices shall be posted at least 30 days prior to the date such election shall become effective and shall be kept continuously posted thereafter in sufficient places frequented by the employees of said employer to reasonably notify such employees of such election.

Any private employer who has thus elected not to be an assenting employer may thereafter at any time become an assenting employer by filing with the Commission at its office in Augusta his written notice in such form as the Commission approves withdrawing his election not to be an assenting employer.'

Sec. 5. R. S., c. 31, § 6, sub-§ III, amended. Subsection III of section 6 of chapter 31 of the Revised Statutes is hereby amended to read as follows:

'III. Assenting employer may become self-insurer by filing securities. ~~Any private employer desiring to become an assenting employer as self-insurer may, in lieu of filing an insurance policy as above provided, furnish~~ Every assenting employer shall secure such compensation and other benefits to his employees in one or more of the following ways:

By insuring and keeping insured the payment of such compensation and other benefits under an industrial accident insurance policy. The insurance company shall file with the Commission notice, in such form as the Commission approves, of the issuance of any industrial accident policy to an assenting employer.

By furnishing 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~~ **The** Commission may at any time in its discretion deny to an assenting employer the right to continue in the exercise of the option granted by this subsection.'

Sec. 6. R. S., c. 31, § 6, sub-§ IV, repealed and replaced. Subsection IV of section 6 of chapter 31 of the Revised Statutes is hereby repealed and the following enacted in place thereof :

'IV. Certificate to assenting employer. Any private employer of 5 or less employees may become an assenting employer with respect to his employees and any private employer may become an assenting employer with respect to his employees engaged in domestic service or in agriculture, or in the operations of cutting, hauling, rafting or driving logs, including work incidental thereto, and the act of the employer in securing the payment of compensation to such employee or class of employees in conformity with the provisions of this section shall constitute as to such employer his election to become an assenting employer without any further act on his part, but only with respect to that employee or that class of employees with respect to whom the employer has secured compensation as provided in this section provided, that, as to any employer who secures compensation by making a contract of industrial accident insurance, such election shall be deemed to have been made on the effective date of the insurance policy. Such election to be an assenting employer shall be deemed to continue as long as compensation continues to be secured as herein provided.'