

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Third Legislature

OF THE

STATE OF MAINE

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shall join therein, or execute a release of such lien and any person or persons, firm or firms, corporation or corporations, including an insurance carrier, making any payment to such patient or to his attorneys or heirs or legal representatives, or to any other person as compensation for the injuries sustained, after the filing and receipt of such notice, without paying to such hospital the amount of its lien or so much thereof as can be satisfied out of the moneys due under any final judgment or compromise or settlement agreement after paying the amount of any prior liens, shall for a period of one year from the date of payment to such patient or his heirs, attorneys or legal representatives, or other person, as provided, be and remain liable to such hospital for the amount which such hospital was entitled to receive; and any such association, corporation or other institution maintaining such hospital may, within such period, enforce its lien by a civil action against such person or persons, firm or firms, corporation or corporations making any such payment. The assertion, claim or filing of such a lien shall in no way be deemed an election on behalf of the hospital, and the hospital shall retain all its rights to collect from the patient or from any other person legally liable for care, treatment and maintenance of the injured party.

§ 3414. Index

Every municipal clerk shall, at the expense of the municipality, provide a book or card filing system to be called the hospital lien docket in which, upon the filing of any lien claim under this chapter, he shall enter the name of the injured person, the name of the person, firm or corporation alleged to be liable for the injuries, the date of the accident and the name of the hospital or other institution making the claim. Said clerk shall make a proper index of the same in the name of the injured person and such clerk shall be entitled to be paid a fee of \$1 by the lien claimant for such filing.

§ 3415. Application

This chapter shall apply only to such charges for medical or other services furnished to persons who were injured by reason of such accidents occurring on or after the effective date of this Act.

Effective October 7, 1967

Chapter 374

AN ACT Clarifying Compensation for Occupational Disease Under Workmen's Compensation Act.

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

Sec. 1. R. S., T. 39, § 51, amended. Section 51 of Title 39 of the Revised Statutes is amended to read as follows:

§ 51. Entitlement to compensation and services generally

If an employee who has not given notice of his claim of common law or statutory rights of action, or who has given such notice and has waived the same, as provided in section 28 receives a personal injury by accident arising out

of and in the course of his employment or is disabled by occupational disease, he shall be paid compensation and furnished medical and other services by the employer who shall have assented to become subject to this Act.

Sec. 2. R. S., T. 39, § 52, amended. The first sentence of section 52 of Title 39 of the Revised Statutes, as repealed and replaced by section 1 of chapter 408 and as amended by section 4 of chapter 489, both of the public laws of 1965, is further amended to read as follows:

An employee sustaining a personal injury by accident arising out of and in the course of his employment or is disabled by occupational disease shall be entitled to reasonable and proper medical, surgical and hospital services, nursing, medicines, and mechanical, surgical aids, as needed, paid for by the employer.

Sec. 3. R. S., T. 39, § 182, amended. The first sentence of section 182 of Title 39 of the Revised Statutes is amended to read as follows:

Except as otherwise specifically provided, incapacity to work or death of an employee arising out of and in the course of the employment, and resulting from an occupational disease ~~as defined~~, shall be treated as the happening of a personal injury by accident arising out of and in the course of the employment, within the meaning of the Workmen's Compensation Act, and all the provisions of that Act shall apply to such occupational diseases.

Sec. 4. R. S., T. 39, § 183, amended. Section 183 of Title 39 of the Revised Statutes is amended to read as follows:

§ 183. Occupational disease defined

Whenever used in this law, the term "occupational disease" shall be construed to mean only a disease ~~set forth in section 193~~ which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment and which arises out of and in the course of employment.

Sec. 5. R. S., T. 39, § 189, repealed and replaced. Section 189 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 189. Compensation limits

Compensation for partial or total incapacity or death from occupational disease shall be payable in the same manner and amounts as provided in sections 54, 55 and 58. Compensation shall not be payable for incapacity by reason of occupational diseases unless such incapacity results within 2 years after the last injurious exposure to such disease in the employment.

Sec. 6. R. S., T. 39, § 193, repealed and replaced. Section 193 of Title 39 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 193. Occupational loss of hearing

In case of loss of hearing resulting from occupational disease, the following rules shall be applicable in determining eligibility for compensation and the period during which compensation shall be payable:

1. Definition. Whenever used in this chapter, "occupational hearing loss" shall mean a sensorineural loss of hearing in one or both ears due to prolonged exposure to injurious noise in employment. Injurious noise means sound capable of producing occupational hearing loss.

2. Limitations on sound frequencies. Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000 and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second are not to be considered as constituting disability for hearing.

3. Determination of hearing loss. The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000 and 2,000 per second. Hearing levels shall be measured by means of pure-tone ear-conduction audiometric instruments calibrated in accordance with American Standard Z24.5, 1951, American Standards Association, March 21, 1951, and in an area with ambient noise level within the limits specified in American Standards Association Criteria for Background Noise in Audiometric Room S3.1, 1960. If the losses of hearing average 15 decibels or less in the 3 frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 82 decibels or more in the 3 frequencies, then the same shall constitute and be total or 100 percent compensable hearing loss.

4. Compensation payable. There shall be payable as permanent partial disability for total occupational deafness of one ear 50 weeks of compensation, for total occupational deafness of both ears, 100 weeks of compensation, and for partial occupational deafness in one or both ears, compensation shall be paid for such periods as are proportionate to the relation which the hearing loss bears to the amount provided in this subsection for total loss of hearing in one or both ears, as the case may be. The amount of hearing loss shall be reduced by the average amount of hearing loss from nonoccupational causes found in the population at any given age according to the provisions set forth.

5. Measurement of hearing impairment. In measuring hearing impairment, the lowest measured losses in each of the 3 frequencies shall be added together and divided by 3 to determine the average decibel loss. For every decibel of loss exceeding 15 decibels, an allowance of $1\frac{1}{2}\%$ shall be made up to the maximum of 100%, which is reached at 82 decibels.

6. Binaural hearing impairment. In determining the binaural, both ears, percentage of loss, the percentage of impairment in the better ear shall be multiplied by 5. The resulting figure shall be added to the percentage of impairment in the poorer ear, and the sum of the 2 divided by 6. The final percentage shall represent the binaural hearing impairment.

7. Presbycusis. Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from nonoccupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, $\frac{1}{2}$ decibel for each year of the employee's age over 40 at the time of last exposure to industrial noise.

8. Filing of claims. No claim for compensation for occupational deafness may be filed until after 6 months' separation from the noisy work for the last

employer in whose employment the employee was at any time during such employment exposed to harmful noise, and the last day of such period of separation from the noisy work shall be the date of disability.

9. Employers limit of liability. An employer shall become liable for the entire occupational deafness to which his employment has contributed, but if previous deafness is established by a hearing test or by other competent evidence, whether or not the employee was exposed to noise within 6 months preceding such test, the employer shall not be liable for previous loss so established, nor shall he be liable for any loss for which compensation has previously been paid or awarded.

No employer shall be liable for the payment of compensation for occupational deafness unless the employee claiming benefits shall have worked for such employer in employment exposing the employee to harmful noise for a total period of at least 90 days.

No consideration shall be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

10. Restriction on liability. No compensation shall be payable for temporary disability for loss of hearing due to exposure to injurious noise in employment.

Sec. 7. R. S., T. 39, § 194, amended. Section 194 of Title 39 of the Revised Statutes is amended to read as follows:

§ 194. Silicosis

In the absence of conclusive evidence in favor of the claim, disability or death from silicosis shall be presumed not to be due to the nature of any occupation, unless during the 10 years immediately preceding the date of disability the employee has been exposed to the inhalation of silica dust over a period of not less than ~~5 2 years~~ ~~2 years of which shall have been in this State, under a contract of employment existing in this State.~~ If the employee shall have been employed by the same employer during the whole of such ~~5 year~~ 2-year period, his right to compensation against such employer shall not be affected by the fact that he had been employed during any part of such period outside of this State. ~~No compensation shall be payable for partial incapacity due to silicosis. The compensation payable in any such case shall be limited to a period not to exceed the average life expectancy of a person of the age and sex of the deceased. In the event of disability from silicosis the employer shall provide reasonable medical treatment not to exceed \$1,000 in amount.~~

Sec. 8. R. S., T. 39, § 194-A, additional. Title 39 of the Revised Statutes is amended by adding a new section 194-A, to read as follows:

§ 194-A. Asbestosis

In the absence of evidence in favor of the claim, disability or death from asbestosis shall be presumed not to be due to the nature of any occupation, unless during the 15 years immediately preceding the date of disability the employee has been exposed to the inhalation of asbestos dust over a period of not less than 2 years. If the employee shall have been employed by the same employer during the whole of such 2-year period, his right to compensation against

such employer shall not be affected by the fact that he had been employed during any part of such period outside of this State.

Sec. 9. R. S., T. 39, § 195, amended. Section 195 of Title 39 of the Revised Statutes is amended to read as follows:

§ 195. Disability due to radioactive properties

Notwithstanding any of the provisions of this chapter, the employee need not be exposed to radioactive substances for a period of 60 days or more, as otherwise stated under section 186, and the time for filing claims shall not begin to run in cases of incapacity ~~under section 193, item 18~~ until the person claiming benefits knew, or by exercise of reasonable diligence should have known of the causal relationship between his employment and his incapacity, or after incapacity, whichever is later.

Sec. 10. R. S., T. 39, § 196, repealed. Section 196 of Title 39 of the Revised Statutes is repealed.

Sec. 11. Effective date. This Act shall take effect November 30, 1967.

Effective November 30, 1967

Chapter 375

AN ACT Increasing Fees for Sheriffs and Deputies.

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

Sec. 1. R. S., T. 30, § 1051, sub-§§ 5, 6, amended. Subsections 5 and 6 of section 1051 of Title 30 of the Revised Statutes are amended to read as follows:

5. Attachment of personal property; replevin. For attachment of personal property or for the service of writ of replevin, \$6, and in addition thereto ~~\$1.50~~ \$2 for each hour after the first required for such service.

6. Civil arrests and custody. The fee for civil arrests shall be ~~\$3~~ \$5 for such arrest and ~~\$3~~ \$5 shall be charged for custody thereunder, including arrest and custody under bastardy proceedings.

Sec. 2. R. S., T. 30, § 1051, sub-§ 10, amended. Subsection 10 of section 1051 of Title 30 of the Revised Statutes is amended to read as follows:

10. Search for persons to serve. Sheriffs and their deputies shall make a charge of ~~\$1~~ \$2, plus necessary travel, for making diligent search for persons upon whom they are commanded to serve civil process when such party cannot be located at an address given to said sheriff or his deputy by the plaintiff or his attorney when commanding such service to be made.

Sec. 3. R. S., T. 30, § 1051, sub-§§ 14 - 16, amended. Subsections 14 to 16 of section 1051 of Title 30 of the Revised Statutes, as amended by section 2 of chapter 308 of the public laws of 1965, are further amended to read as follows: