

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

CHAPTER 480

AN ACT Concerning the Workmen's Compensation Act.

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

Sec. 1. 39 MRSA § 2, sub-§ 2, ¶ A, first sentence, is amended to read:

“Average weekly wages, earnings or salary” of an injured employee shall be taken as the amount which he was receiving at the time of the ~~accident~~ injury for the hours and days constituting a regular full working week in the employment or occupation in which he was engaged when injured, provided such employment or occupation had continued on the part of the employer for at least 200 full working days during the year immediately preceding said ~~accident~~ injury.

Sec. 2. 39 MRSA § 2, sub-§ 3 is repealed and the following enacted in place thereof:

3. Commission; commissioner. “Commission” shall mean the Industrial Accident Commission created by section 91. The authority of the commission may be exercised by a single commissioner. “Commissioner” shall mean any member of the commission appointed under section 91 to hear and determine cases. Rule-making powers, however, shall be exercised only by a quorum of all members of the Industrial Accident Commission.

Sec. 3. 39 MRSA § 3, first sentence is amended to read:

In an action to recover damages for personal injuries sustained by an employee ~~by accident~~ arising out of and in the course of his employment, or for death resulting from such injuries, it shall not be a defense to an employer, except as hereinafter specified:

Sec. 4. 39 MRSA § 23, sub-§ 2-A, ¶ D, as enacted by PL 1973, c. 559, § 2, is amended to read:

D. A description of the safety organization maintained by the employer or group for the prevention of ~~accidents~~ injuries;

Sec. 5. 39 MRSA § 23, sub-§ 2-A, 2nd ¶, last sentence, as enacted by PL 1973, c. 559, § 2, is amended to read:

Security against shock or catastrophe loss shall be provided either by depositing securities in such amount as the chairman may determine, or by filing with the chairman an insurance carrier's certificate of a standard self-insurer's excess contract issued to the self-insurer or group in form approved by the chairman, providing reinsurance coverage against losses arising out of one ~~accident~~ injury in such amounts as the chairman may determine, or a combination of the foregoing, satisfactory to the chairman.

Sec. 6. 39 MRSA § 51, as amended by PL 1967, c. 374, § 1, is further amended to read:

§ 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. 7. 39 MRSA § 56, next to last ¶, last sentence, is amended to read:

A petition for determination of the percentage of permanent hearing impairment due to an injury shall be filed with the commission within 2 years from the date of the ~~accident~~ injury.

Sec. 8. 39 MRSA § 58, 1st sentence, as last amended by PL 1973, c. 557, § 4, is further amended to read:

If death results from the injury, the employer shall pay the dependents of the employee, dependent upon his earnings for support at the time of his ~~accident~~ injury, a weekly payment equal to $\frac{2}{3}$ his average gross weekly wages, earnings or salary, but not more than the average weekly wage in the State of Maine as computed by the Employment Security Commission, nor less than \$25 weekly, from the date of death, until such time as provided for in the following paragraph.

Sec. 9. 39 MRSA § 58, last paragraph, as repealed and replaced by PL 1965, c. 408, § 6, is amended to read:

If the employee leaves dependents only partly dependent upon his earnings for support at the time of his ~~accident~~ injury, the employer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments ~~herein~~ provided in this section for the benefit of persons dependent, as the total amount contributed by the employee to such partial dependents for their support during the year prior to his ~~accident~~ injury, bears to the earnings of the employee during said period.

Sec. 10. 39 MRSA §§ 64-B and 64-C, as enacted by PL 1975, c. 169, are amended to read:

§ 64-B. Cardiovascular injury or disease or pulmonary disease suffered by a fire fighter

If any person has been an active member of a municipal fire department or of a volunteer fire fighters' association, as defined in Title 30, section 3771, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and if said disease has developed or the injury has occurred within 6 months of having participated in fire fighting or training or drill which actually involves fire fighting, ~~it shall be presumed, unless the employer proves the contrary by a preponderance of the evidence there shall be a rebuttable presumption~~ that the employee received the injury or contracted the disease arising out of and in the course of his employment, that sufficient notice of the injury or disease has been given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

§ 64-C. Cardiovascular injury or disease or pulmonary disease resulting in a fire fighter's death

If any person had been an active member of a municipal fire department or of a volunteer fire fighters' association, as defined in Title 30, section 3771, for at least 2 years prior to a cardiovascular injury or the onset of a cardiovascular disease or pulmonary disease and provided that the person had developed the disease or had suffered the injury which resulted in death within 6 months of having a cardiovascular disease or pulmonary disease which resulted in his death, and had participated in fire fighting or training or drill which actually involves fire fighting, it shall be presumed, unless his employer proves to the contrary by a preponderance of the evidence there shall be a rebuttable presumption that the person received the injury or disease arising out of and in the course of his employment, that sufficient notice of the injury or disease was given, and that the injury or disease was not occasioned by the willful intention of the employee to injure himself or another.

Sec. 11. 39 MRSA § 183, as last amended by PL 1967, c. 374, § 4, is further amended to read:

§ 183. Occupational disease defined

Whenever used in this law, the term "occupational disease" shall be construed to mean only a disease 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. 12. 39 MRSA § 194, 1st sentence, as last amended by PL 1967, c. 374, § 7, is further amended to read:

In the absence of 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 ~~to~~ 15 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 2 years.

Sec. 13. Effective date. Section 10 of this Act shall become effective 90 days after adjournment of the Legislature.

Effective October 1, 1975. Except as Otherwise Indicated.

CHAPTER 481

AN ACT to Reassign the Functions of the Department of Commerce and Industry.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State of Maine has been severely affected by the current economic crisis and this situation is likely to continue for the foreseeable future; and

Whereas, it is urgent that the State of Maine formulate emergency and long-range plans and policies for providing new industrial development and additional jobs to meet the needs of the people of Maine; and