

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE

**FIRST SPECIAL SESSION**

October 9, 1987 to October 10, 1987

**SECOND SPECIAL SESSION**

October 21, 1987 to November 20, 1987

and the

**SECOND REGULAR SESSION**

January 6, 1988 to May 5, 1988

PUBLISHED BY THE REVISOR OF STATUTES  
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TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
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1988

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST AND SECOND SPECIAL SESSIONS  
and  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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## CHAPTER 560

S.P. 710 — L.D. 1932

AN ACT to Make Technical Corrections in the  
Workers' Compensation Act.

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

Whereas, technical changes are necessary to Public Law 1987, chapter 559 which need to be enacted as emergencies to accomplish the intent of the Legislature; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 5 MRSA §17906, sub-§2, ¶¶A and D, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:

A. The amount of any disability retirement benefit payable under this article shall be reduced by any amount received by the beneficiary for the same disability under either or both of the following:

(1) The worker's compensation or similar law, except amounts which may be paid or payable under Title 39, ~~sections 56 or 56-A~~ section 56-B; or

(2) The United States Social Security Act, if the employment for which creditable service with the employer is allowed was also covered under that act at the date of disability retirement.

D. Lump-sum settlements of benefits that would reduce the disability retirement benefit under this subsection shall be prorated on a monthly basis in an equitable manner prescribed by the board.

(1) These prorated lump-sum settlements may not include any part of the lump-sum settlement attributable to vocational rehabilitation, attorneys' fees, physicians, nurses, hospital, medical, surgical or related fees or charges or any amount paid or payable under Title 39, ~~section 56 or 56-A~~ 56-B.

(2) These prorated lump-sum settlements shall reduce the disability retirement benefit in the same manner and amount as monthly benefits under this subsection.

**Sec. 2.** 39 MRSA §51-B, sub-§3 as amended by PL 1985, c. 372, Pt. A, §9, is further amended to read:

3. Compensation for incapacity. The first payment of compensation for incapacity under section ~~54-A or 55-A~~ 54-B or 55-B is due and payable within 14 days after the employer has notice or knowledge of the injury or death. In cases where the employee did not lose time from work within 5 scheduled work days following the injury, compensation for incapacity under section ~~54-A or 55-A~~ 54-B or 55-B is due and payable within 14 days of the date the employee asserts to the employer that that lost time is related to the injury. Subsequent incapacity compensation benefit payments shall be made weekly and in a timely fashion.

**Sec. 3.** 39 MRSA §51-B, sub-§4, as amended by PL 1985, c. 729, §1, is further amended to read:

4. Compensation for impairment; compensation for medical expenses. Compensation for impairment under ~~sections 56 and 56-A~~ section 56-B shall not be payable prior to the date on which the injured employee reaches the stage of maximum medical improvement. It shall become due and payable within 90 days after the employer has notice that maximum medical improvement has been attained. For the purpose of this subsection, "maximum medical improvement" means the date after which further recovery and further restoration of function can no longer be reasonably anticipated, based upon reasonable medical probability. Compensation for medical expenses, aids and other services under section 52 is due and payable within 90 days from the date a request is made for payment of these expenses.

**Sec. 4.** 39 MRSA §57-B, sub-§3, as enacted by PL 1985, c. 372, Pt. A, §23, is amended to read:

3. Reimbursement. The employer shall be reimbursed at least quarterly from the Employment Rehabilitation Fund for any weekly wage replacement benefits for which he is liable under section ~~54-A, 55-A~~ 54-B, 55-B or 58-A, and which are paid by that employer.

A. An employer entitled to reimbursement under this section remains liable to the employee for all payments otherwise required from him by this Act and remains responsible for carrying out the rehabilitation efforts required by subchapter III-A as a result of the subsequent injury.

B. A commissioner shall order a reduction, suspension or termination of reimbursement of an employer under this section if the commissioner finds that the employer has not made a bona fide effort to return the employee to continuing gainful employment.

**Sec. 5.** 39 MRSA §58-A, first ¶, as enacted by PL 1985, c. 372, Pt. A, §25, is 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 injury, a weekly payment equal to 2/3 his average gross weekly wages, earnings or salary, but not more than the maximum

benefit under section ~~53-A~~ 53-B, nor less than \$25 weekly from the date of death until the time provided for in subsection 2. This weekly compensation shall be adjusted annually so that it continues to bear the same percentage relationship to the state average weekly wage, as computed by the Maine Unemployment Insurance Commission, as it did at the time of the injury, but in no case may the annual adjustment exceed the lesser of 5% or the actual percentage increase in the state average weekly wage for the previous year. The annual adjustment required by this section shall be made on the anniversary date of the injury, except that where the effect of the maximum under section ~~53-A~~ 53-B is to reduce the amount of compensation to which the claimant would otherwise be entitled, the adjustment shall be made annually on July 1st.

Sec. 6. 39 MRSA §62-A, sub-§1, as enacted by PL 1979, c. 496, §2, is amended to read:

1. Reduction for unemployment benefits. Compensation paid under this Act, ~~except for lump sum payments under sections 56 and 56-A~~ compensation under section 56-B and lump sum settlements, to any employee for any period with respect to which he is receiving or has received benefits under the employment security law, shall be reduced by the amount of the unemployment benefits.

Sec. 7. 39 MRSA §62-B, sub-§§1, 3 and 4, as enacted by PL 1985, c. 372, Pt. A, §26, is amended to read:

1. Application. This section applies when weekly compensation is payable to an employee under section ~~54-A or 55-A~~ 54-B or 55-B for any period for which he is receiving or has received old age insurance benefit payments under the United States Social Security Act, United States Code, Title 42, Sections 301 to 1397f, or payments under an employee benefit plan.

3. Coordination of benefits. Benefit payments subject to this section shall be reduced in accordance with the following provisions.

A. The employer's obligation to pay weekly compensation under section ~~54-A or 55-A~~ 54-B or 55-B shall be reduced by:

- (1) Fifty percent of the amount of old age insurance benefits received or being received under the United States Social Security Act;
- (2) The after tax amount of the payments received or being received under an employee benefit plan provided by the same employer by whom benefits under section ~~54-A or 55-A~~ 54-B or 55-B are payable if the employee did not contribute directly to the plan; and
- (3) The proportional amount, based upon the ratio of the employer's contributions to the total contributions, of the after tax amount of the payments

received or being received by the employee under an employee benefit plan provided by the same employer by whom benefits under section ~~54-A or 55-A~~ 54-B or 55-B are payable if the employee did contribute directly to the plan.

B. No reduction in weekly compensation may be made if benefits received under an employee benefit plan are required to be reduced to reflect the receipt of benefits under this Act.

C. No reduction in weekly compensation may be made as a result of any increase granted by the United States Social Security Administration as a cost-of-living adjustment.

D. Weekly compensation may be reduced to no less than 10% of the amount due to the employee under section ~~54-A or 55-A~~ 54-B or 55-B or to a minimum weekly payment of \$7 after reduction under this section, whichever is greater.

4. Release of information. Within 14 days after the date of the first payment of compensation under section ~~54-A or 55-A~~ 54-B or 55-B or 14 days after the date of application for any benefits subject to coordination under this section, whichever is later, the employee shall, upon request, provide the employer with a certificate authorizing the employer to obtain any benefit information necessary to comply with this section. If, at any subsequent time, the employer is required to submit a new certificate in order to receive that information, a new certificate shall be provided upon request within 14 days. All certificates for the release of information shall be in a form prescribed by the commission. If the employee fails to provide a properly executed certificate, the employer may, with the approval of the commission, suspend all benefit payments until the certificate is provided. Any benefits so withheld shall be paid to the employee once the required certificate is provided, subject to any reductions authorized by this section.

Sec. 8. 39 MRSA §188, as amended by PL 1985, c. 372, Pt. A, §46, is further amended to read:

§188. Partial incapacity

Compensation shall be payable for partial incapacity due to occupational diseases as provided in section ~~55-A~~ 55-B of the Workers' Compensation Act.

Sec. 9. 39 MRSA §189, first ¶, as amended by PL 1985, c. 372, Pt. A, §47, is further amended to read:

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-A, 55-A~~ 54-B, 55-B and 58-A. Compensation shall not be payable for incapacity by reason of occupational diseases unless such incapacity results within 3 years after the last injurious exposure to such disease in the employment.

**Sec. 10.** 39 MRSA §194-B, sub-§8, ¶C, as amended by PL 1985, c. 372, Pt. A, §48, is repealed and the following enacted in its place:

C. If an employee becomes incapacitated or dies on or after October 1, 1983, but before June 30, 1985, then compensation shall be payable in the same manner and amounts as provided in former sections 54, 55 and 58. If an employee becomes incapacitated or dies on or after June 30, 1985, but before the effective date of this paragraph, then compensation shall be payable in the same manner and amount as provided in former sections 54-A, 55-A and 58-A. If an employee becomes incapacitated or dies on or after the effective date of this paragraph, compensation shall be payable in the same manner and amount as provided in sections 54-B, 55-B and 58-A.

**Sec. 11.** PL 1987, c. 559 is amended by adding at the end the following:

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

**Sec. 12. Applicability.** This Act applies only to injuries occurring on or after the effective date of this Act.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective November 20, 1987.

## CHAPTER 561

S.P. 675 — L.D. 1908

### AN ACT to Provide Staff for Improvement of Corporation Filing Services within the Bureau of Corporations.

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

Whereas, businesses face a critical situation when they try to incorporate in the State due to a shortage of recording staff; and

Whereas, this legislation is urgently needed to restore same-day service to corporations wanting to incorporate in this State; and

Whereas, this legislation is vitally needed to keep pace with the State's economy which is expanding rapidly; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 10 MRSA §1522, sub-§2, as enacted by PL 1979, c. 572, §2, is amended to read:

2. **Application for registration.** Subject to the limitations set forth in this chapter, any person who adopts and uses a mark in this State may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:

A. The name and business address of the person applying for the registration and if a corporation, the state of incorporation;

B. The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class in which the goods or services fall;

C. The date when, to the best of the applicant's knowledge and belief, the mark was first used anywhere and the date when it was first used in this State by the applicant or his predecessor in business; and

D. A statement that the applicant believes himself to be the owner of the mark and that no other person to the best of his knowledge and belief has the right to use the mark in this State as a mark or as a trade name or as a corporate name either in the identical form thereof or in such near resemblance thereto as to be likely, when applied to the goods or services of the other person, to cause confusion or to cause mistake or to deceive.

The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by a specimen or facsimile of the mark in triplicate.

The application for registration shall be accompanied by a filing fee of ~~\$25~~ \$50 for the first class and \$10 for each additional class, payable to the Treasurer of State.

**Sec. 2.** 10 MRSA §1524, first ¶, as enacted by PL 1979, c. 572, §2, is amended to read:

Registration of a mark shall be effective for a term of 10 years from the date of registration and, upon application filed within 6 months prior to the expiration of the term, on a form to be furnished by the Secretary of State, the registration may be renewed for a like term. A renewal fee of ~~\$25~~ \$50, payable to the Treasurer of State, shall accompany the application for renewal of the registration.

**Sec. 3.** 10 MRSA §1525, sub-§1, as enacted by PL 1979, c. 572, §2, is amended to read:

1. **Recording.** Any mark and its registration shall be