

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
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1989

- A. Complete name;
- B. Date and place of birth;
- C. Present and past employment status;
- D. Social security number; and
- E. Current or last known address.

6. Immunity from liability. Any person may disclose to the department any of the information described in subsection 2 or 3 that is sought in a request or demand by the department, to the extent it is not confidential or privileged, without incurring any liability to any other person because of the disclosure.

7. Affirmation of responses. The department may require that a response to a request or demand be affirmed under the penalties for unsworn falsification under Title 17-A, section 453.

8. Facilitation of responses. A request or demand shall contain or be accompanied by a business-reply or prepaid self-addressed envelope.

9. Notice. At the time that the department makes a request or demand, it shall notify the responsible parent or alleged responsible parent in the manner set forth in subsection 4.

10. Penalty for failure to respond. Knowing failure to respond to a demand for information within 10 days following the date of service of the demand is a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

See title page for effective date.

CHAPTER 256

H.P. 678 - L.D. 929

An Act to Clarify the Payment of Medical Expenses under the Workers' Compensation Act

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

Sec. 1. 39 MRSA §51-B, sub-§4, as amended by PL 1987, c. 559, Pt. B, §17, and c. 560, §3, is repealed and the following enacted in its place:

4. Compensation for impairment; compensation for medical expenses. Compensation for impairment under section 56-B shall not be paid before the date on which the injured employee reaches the stage of maximum medical improvement. That compensation is due and payable within 90 days after the employer has notice that maximum medical improvement has been attained. Compensation for medical expenses, aids and other services under section 52 is due and payable within 75 days from the date that a request for payment of these expenses is received.

Sec. 2. 39 MRSA §51-B, sub-§5, as amended by PL 1983, c. 682, §3, is further amended to read:

5. Memorandum of payment. Upon making the first payment of compensation for incapacity ~~or for medical expenses~~ or upon making a payment of compensation for impairment, the employer shall immediately forward to the commission a memorandum of payment on forms prescribed by the commission. This information shall include, at a minimum, the following:

- A. The names of the employee, employer and insurance carrier;
- B. The date of the injury;
- C. The names of the employee's other employers, if any, or a statement that there is no multiple employment, if that is the case; and
- D. The initial weekly compensation rate.

~~When the compensation sought does not include payments for incapacity or impairment, the information described in paragraphs C and D need not be provided.~~

~~When payment is solely one for medical expenses and the employer has previously filed any memorandum of payment with respect to the claim, no subsequent memorandum of payment for medical expenses need be filed. Reporting of subsequent medical expenses paid shall be made to the commission in accordance with its rules.~~

Sec. 3. 39 MRSA §51-B, sub-§7, as amended by PL 1987, c. 559, Pt. B, §18, is further amended to read:

7. Notice of controversy. If the employer, prior to making payments under subsection 3, controverts the claim to compensation, ~~he the employer~~ shall file with the commission, within 14 days after an event which gives rise to an obligation to make payments under subsection 3, a notice of controversy in a form prescribed by the commission. If the employer, prior to making payments under subsection 4, controverts the claim to compensation, ~~he the employer~~ shall file with the commission, within 90 days after an event which gives rise to an obligation to make payments under subsection 4, a notice of controversy in a form prescribed by the commission. The notice shall indicate the name of the claimant, name of the employer, date of the alleged injury or death and the grounds upon which the claim to compensation is controverted. The employer shall promptly furnish the employee with a copy of the notice.

If, at the end of the 14-day period in subsection 3 or the 90-day ~~period~~ ~~or 75-day periods~~ in subsection 4, the employer has not filed the notice required by this subsection, ~~he the employer~~ shall begin payments as required under those subsections. In the case of compensation for incapacity under subsection 3, ~~he the employer~~ may cease payments and file with the commission a notice of controversy, only as provided in this subsection, no later than 44 days after an event which gives rise to an obligation to make payments under subsection 3. Failure to file the required notice of contro-

versy prior to the expiration of the 44-day period, in the case of compensation under subsection 3, constitutes acceptance by the employer of the compensability of the injury or death. Failure to file the required notice of controversy does not constitute such an acceptance by the employer when it is shown that the failure was due to employee fraud or excusable neglect by the employer, except when payment has been made and a notice of controversy is not filed within 44 days of that payment. Failure to file the required notice of controversy prior to the expiration of the 90-day period under subsection 4 constitutes acceptance by the employer of the extent of impairment claimed ~~or the reasonableness of the medical services claimed.~~ Failure to file the required notice of controversy prior to the expiration of the 75-day period under subsection 4 for compensation for medical expenses, aids or other services pursuant to section 52 constitutes acceptance by the employer of the reasonableness and propriety of the specific medical services for which compensation is claimed and requires payment for those services, but does not constitute acceptance of the compensability of the injury or death.

If, at the end of the 44-day period the employer has not filed a notice of controversy, or if, pursuant to a proceeding before the commission, the employer is required to make payments, the payments may not be decreased or suspended, except as provided in section 100.

Sec. 4. 39 MRSA §95, as amended by PL 1983, c. 587, §1, is further amended to read:

§95. Time for filing petitions

Any employee's claim for compensation under this Act shall be barred unless an agreement or a petition as provided in section 94 shall be filed within 2 years after the date of the injury, or, if the employee is paid by the employer or the insurer, without the filing of any petition or agreement, within 2 years of any payment by such employer or insurer for benefits otherwise required by this Act. The 2-year period in which an employee may file ~~his~~ a claim does not begin to run until ~~his~~ the employee's employer, if he the employer has actual knowledge of the injury, files a first report of injury as required by section 106 of the Act. Any time during which the employee is unable by reason of physical or mental incapacity to file the petition shall not be included in the period provided in this section. If the employee fails to file the petition within that period because of mistake of fact as to the cause and nature of the injury, ~~he~~ the employee may file the petition within a reasonable time. In case of the death of the employee, there shall be allowed for filing said petition one year after that death. No petition of any kind may be filed more than 10 years following the date of the latest payment made under this Act. For the purposes of this section, payments of benefits made by an employer or insurer pursuant to section 51-B or 52 shall be considered payments under a decision pursuant to a petition, unless a timely notice of controversy has been filed.

See title page for effective date.

CHAPTER 257

S.P. 354 - L.D. 955

An Act Concerning Municipal Regulation of Shellfish Resources

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

Whereas, compliance with the National Shellfish Sanitation Program will require that many of the classified shellfish growing areas in the State be temporarily closed to shellfish harvesting; and

Whereas, town meetings will soon be held in many municipalities that will be closed to shellfish harvesting; 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. 12 MRSA §6621, sub-§3, ¶¶A and B, as amended by PL 1983, c. 301, §8, are further amended to read:

A. The taking of shellfish under the authority of section 6856; ~~or~~

B. Shellfish kept or washed in waters sterilized with a system that has been approved in writing by the commissioner, provided that the waters are also approved for that use; or

Sec. 2. 12 MRSA §6621, sub-§3, ¶C is enacted to read:

C. Municipal officials, with express written authorization from the commissioner, who are engaging in activities authorized under section 6671. Requests for exception shall be submitted to the commissioner in writing stating the activities proposed and the name of the person designated by the municipal officials to supervise those activities. In addition, the municipality shall, at least 24 hours prior to engaging in the activity, notify the department of the time or times the activity authorized under this paragraph will be conducted.

Sec. 3. 12 MRSA §6671, sub-§3, as amended by PL 1987, c. 867, is repealed and the following enacted in its place:

3. Shellfish conservation ordinance. Within any area of the municipality, a shellfish conservation ordinance may regulate or prohibit the possession of shellfish; may fix the amount of shellfish that may be taken; may provide for