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An Act To Use the Date of Injury To Calculate the Average Weekly Wage in Occupational Disease Cases

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

Sec. 1. 39-A MRSA §606, as amended by PL 1995, c. 462, Pt. A, §81, is further amended to read:

§ 606. Date from which compensation is computed; employer liable

The date when an employee becomes incapacitated by an occupational disease from performing the employee's work in the last occupation in which the employee was injuriously exposed to the hazards of the occupational disease is the date of the injury equivalent to the date of injury under the former Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. When compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease and the insurance carrier, if any, on the risk when the employee was last exposed under that employer, are liable. The amount of the compensation must be based on the average wages of the employee when last exposed under that employer and notice on the date of injury. Notice of injury and claim for compensation must be given to that the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease. If the employee is no longer working on the date of incapacity, then the average wages of a comparable employee as of the date of injury must be used to determine the amount of compensation. The only employer and insurance carrier liable are the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of 60 days or more and the insurance carrier, if any, on the risk when the employee was last so exposed, under that employer.

SUMMARY

Under current law, the average weekly wage in occupational disease cases is calculated using the average wage of the employee when the employee was last exposed to the hazards of the occupational disease. This bill specifies that the average weekly wage must be based on the average wage of the employee on the date of injury.