

# 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)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 42

H. P. 25

House of Representatives, January 10, 1979

Referred to the Committee on Labor and sent up for concurrence.

EDWIN H. PERT, Clerk

Presented by Mr. Dexter of Kingfield.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Exempt Small Businessmen from the Workers' Compensation Law.**

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

**Sec. 1.** 39 MRSA § 2, sub-§ 1-A, as enacted by PL 1975, c. 749, § 2, is amended to read:

**1-A. Private employer.** The term "private employer" includes corporations, partnerships and natural persons, **but does not include any corporation, partnership or natural person employing 5 or fewer workers or operatives regularly in the same business.**

**Sec. 2.** 39 MRSA § 2, sub-§ 5, ¶ A, sub-¶ (6) is enacted to read:

**(6) Any person employed by a corporation, partnership or natural person employing 5 or fewer workers or operatives regularly in the same business.**

**Sec. 3.** 39 MRSA § 2, sub-§ 6, as amended by PL 1973, c. 746, § 2, is repealed.

**Sec. 4.** 39 MRSA § 21, first and 2nd ¶¶, as amended, are repealed.

**Sec. 5.** 39 MRSA § 21, sub-§ 1, is enacted to read:

**1. Private employers.** Every private employer shall be subject to this Act and shall secure the payment of compensation in conformity with sections 21 to 27 with respect to employees other than those engaged in domestic service or in agriculture as seasonal or casual farm laborers, subject to the provisions hereinafter stated.

**Any private employer who has not secured the payment of compensation under sections 21 to 27 shall, in a civil action brought by the employee other than one engaged in domestic service or in agriculture as a seasonal or casual farm laborer to recover for personal injuries or death arising out of and in the course of his employment, not be entitled to the defenses set forth in section 3 and the employee of any such employer may in lieu of bringing such a civil action claim compensation from that employer under the provisions of this Act.**

**Sec. 6. 39 MRSA § 24**, as last amended by PL 1977, c. 696, § 403, is further amended by adding at the end a new ¶ to read:

**For the purposes of becoming subject to this Act under this section, the term "private employer" includes any corporation, partnership or natural persons employing 5 or fewer workers or operatives regularly in the same business.**

**Sec. 7. Private employers who wish to continue workers' compensation coverage.** Any private employer who, on the day before the effective date of this Act, was included in the definition of employer under Title 39, section 2, and who, by operation of this Act, would but for this section not be included in that definition, may continue to be included within that definition for the purposes of Title 39 by notifying the Workers' Compensation Commission within 30 days of the effective date of this Act of his or its desire to continue to be subject to Title 39. The employees of any employer so notifying the Workers' Compensation Commission under this section shall be therefore deemed to fall under the definition of employee in Title 39, section 2.

An employer electing inclusion under Title 39 by this section may not later withdraw from that inclusion as to any employee once included in the definition of employee under Title 39, section 2, but otherwise may elect to withdraw from being covered by the definition of employer under Title 39 upon 30 days notification to the Workers' Compensation Commission.

#### STATEMENT OF FACT

This bill recognizes the spiraling costs of workers' compensation coverage for small businesses by exempting small businesses employing 5 or fewer persons from the Workers' Compensation Act. This year alone, workers' compensation coverage may increase by 40%, a rate of increase which will soon put most small businessmen into bankruptcy.

This bill will allow any small businessman who wishes to stay under the workers' compensation system to do so, and permits any small businessman not ordinarily under the system to go under the system if he so chooses. It has the merit of not requiring coverage, and thus of permitting small entrepreneurs to go into business and to continue in business.