

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

**THIRD SPECIAL SESSION**

October 1, 1992 to October 6, 1992

**FOURTH SPECIAL SESSION**

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

**FIRST REGULAR SESSION**

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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

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J.S. McCarthy Company  
Augusta, Maine  
1993

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

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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tion of construction expenses paid for with a grant awarded in accordance with Public Law 1991, chapter 849, section 3 or under the Community Development Block Grant Program.

See title page for effective date.

## CHAPTER 64

### H.P. 312 - L.D. 400

#### An Act to Improve Compliance with the Laws Governing Financial Responsibility

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

**Sec. 1. 29 MRSA §780, sub-§5**, as enacted by PL 1987, c. 341, §§3 and 7, is amended to read:

**5. Penalty.** Violation of this section is a traffic infraction, for which a forfeiture of not ~~more~~ less than \$100 and not more than \$500 may be assessed.

See title page for effective date.

## CHAPTER 65

### H.P. 385 - L.D. 498

#### An Act to Transfer the Predetermination of Independent Contractor Status Responsibility in the Workers' Compensation Laws

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

**Sec. 1. 39-A MRSA §105**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

#### §105. Predetermination of independent contractor status

**1. Predetermination permitted.** A worker, an employer or a workers' compensation insurance carrier, or any together, may apply to the ~~Department of Labor board~~ for a predetermination of whether the status of an individual worker, group of workers or a job classification associated with the employer is that of an employee or an independent contractor.

A. The predetermination by the ~~Department of Labor board~~ creates a rebuttable presumption that the determination is correct in any later claim for benefits under this Act.

B. Nothing in this section requires a worker, an employer or a workers' compensation insurance carrier to request predetermination.

**2. Premium adjustment.** If it is determined that a predetermination does not withstand board or judicial scrutiny when raised in a subsequent workers' compensation claim, then, depending on the final outcome of that subsequent proceeding, either the workers' compensation insurance carrier shall return excess premium collected or the employer shall remit premium subsequently due in order to put the parties in the same position as if the final outcome under the contested claim were predetermined correctly.

**3. Predetermination submission.** A party may submit, on forms approved by the ~~Department of Labor board~~, a request for predetermination regarding the status of a person or job description as an employee or independent contractor. The status requested by a party is deemed to have been approved if the ~~Department of Labor board~~ does not deny or take other appropriate action on the submission within 14 days.

**4. Hearing.** A hearing, if requested by a party within 10 days of the ~~Department of Labor's board's~~ decision on a petition, must be conducted under the Maine Administrative Procedure Act.

**5. Certificate.** The ~~Department of Labor board~~ shall provide the petitioning party a certified copy of the decision regarding predetermination that is to be used as evidence at a later hearing on benefits.

**6. Rulemaking.** The ~~Commissioner of Labor board~~ is authorized to adopt reasonable rules pursuant to the Maine Administrative Procedure Act to implement the intent of this section, which is to afford speedy and equitable predetermination of employee and independent contractor status.

**Sec. 2. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

|  | 1993-94  | 1994-95  |
|--|----------|----------|
| <b>WORKERS' COMPENSATION BOARD</b>   |          |          |
| <b>Workers' Compensation Board</b>   |          |          |
| Positions  | (1.0)    | (1.0)    |
| Personal Services  | \$36,284 | \$52,830 |
| All Other  | 4,775    | 5,700    |
| Provides funds for one staff attorney position to review and assess predetermination requests. |          |          |
| <b>WORKERS' COMPENSATION BOARD</b>   |          |          |
| <b>TOTAL</b>   | \$41,059 | \$58,530 |

See title page for effective date.