

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date July 29, 1974

To John V. Keaney, Chairman Dept. Industrial Accident Commission  
From Leon V. Walker, Assistant Dept. Attorney General  
Subject Mandatory Workmen's Compensation Law

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P. L. 1973, c. 746, makes workmen's compensation coverage compulsory for employers within this state with respect to employees other than those engaged in domestic service or in agriculture as seasonal or casual farm laborers, etc.

39 M.R.S.A. § 2, sub-§ 5, paragraph A, excepts from the definitions of "employee", "persons engaged in maritime employment, or in interstate or foreign commerce, who are within the exclusive jurisdiction of admiralty law or the laws of the United States." You state that in the past, claims for injuries arising on navigable waters have been denied by your Commission for lack of jurisdiction, and that prior to June 28, 1974, since the law was elective only, you were not concerned with injuries arising on land by regularly employed fishermen or lobstermen. Since that date, failure to secure payment of compensation to employees under the Act is a criminal offense.

You state that lobster fishermen frequently hire persons to assist them in hauling of traps and other functions, while fishing in navigable waters. Occasionally these persons, called "sternmen" perform other services while on land, such as boat and trap repair, obtaining gear and supplies. You ask whether, while so engaged in

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these occasional duties on land, such employees come within the exemption of § 2, sub-§ 5, paragraph A, relating to persons engaged in maritime employment. We answer in the negative.

In so answering, we assume, without expressing the opinion, that such persons are employees and, that the injuries occurred on land.

The reference injury is governed by Lermond's Case, 122 Me. 319, which held that where an injury begins upon the ship and culminates upon the land, admiralty does not take jurisdiction, and the case comes within the jurisdiction of the State Court, under the Compensation Act.

In Lermond, the claimant was regularly employed aboard ship, but the court held that to come within the admiralty jurisdiction the wrong and injury must have been committed wholly upon the navigable waters, or at least the substance and consummation of the same must have taken place upon these waters, and the cause of damage must have been there complete.

**AN INFORMAL OPINION**