

MAINE STATE LEGISLATURE

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D. OF R.

STATE OF MAINE
SENATE
107TH LEGISLATURE
FIRST SPECIAL SESSION

SENATE AMENDMENT " M " to S.P. 799, L.D. 2345, Bill, "AN ACT
to Correct Errors and Inconsistencies in Laws of Maine."

Amend said Bill by inserting after section 167 the following
section:

'Sec. 167-A. 39 MRSA §2, sub-§5, ¶A, as last amended by
PL 1975, c. 691, §2, is repealed.

Sec. 167-B. 39 MRSA §2, sub-§5 is repealed and the following
enacted in place thereof:

5. Employee.

A. "Employee" shall include officials of the State, counties, cities, towns,
water districts and all other quasi-public corporations of a similar character,
every duly elected or appointed executive officer of a private corporation,
other than a charitable, religious, educational or other nonprofit corporation,
and every person in the service of another under any contract of hire, ex-
press or implied, oral or written, except:

(1) Persons engaged in maritime employment, or in interstate or for-
eign commerce, who are within the exclusive jurisdiction of admiralty
law or the laws of the United States; and persons operating as

sternmen as defined in Title 36, section 5102,
subsection 8-A.

(2) Any person whose employment is not in the usual course of the
business, profession, trade or occupation of his employer. Firefighters and
policemen shall be deemed employees within the meaning of this Act. Em-
ployers who hire workmen within this State to work outside the State
may agree with such workmen that the remedies under this Act shall be
exclusive as regards injuries received outside this State arising out of
and in the course of such employment; and all contracts of hiring in
this State, unless otherwise specified, shall be presumed to include such
agreement. Any reference to an employee who has been injured shall,
when the employee is dead, include his legal representatives, dependents
and other persons to whom compensation may be payable.

(3) Notwithstanding any other provisions of this Act, any charitable, religious, educational or other nonprofit corporation that may be or become an assenting employer under this Act, may cause any duly elected or appointed executive officer to be an employee of such corporation by specifically including such executive officer among those to whom such corporation secures payment of compensation in conformity with subchapter II; and such executive officer shall remain an employee of such corporation under this Act while such payment is so secured. With respect to any such corporation that secures compensation by making a contract of industrial accident insurance, specific inclusion of such executive officer in such contract shall cause such officer to be an employee of such corporation under this Act.

(4) Any person who states in writing to the commission that he waives all the benefits and privileges provided by the workmen's compensation laws, provided that the commission shall have found such person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which he is employed and that this waiver was not a prerequisite condition to employment.

Any person may revoke or rescind his waiver upon 30 days' written notice to the commission and his employer. The parent, spouse, or child of a person who has made a waiver under the previous sentence may state, in writing, that he waives all the benefits and privileges provided by the workmen's compensation laws if the commissioner finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation which employs the person who has made the first waiver.

(5) The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that he waives all the benefits and privileges provided by the workmen's compensation laws if the commission finds that the waiver is not a prerequisite condition to employment.

Sec. 167-C. Effective date. Sections 167-A and 167-B of this Act shall become effective 91 days after adjournment of the Legislature.'

Further amend said Bill by renumbering sections of the bill to read consecutively.

Statement of Fact

This amendment resolves a possible conflict in the employee definition provisions of the workmen's compensation statutes between chapter 691 of the PL of 1975 and L. D. 2218, which is presently on the Governor's desk awaiting his signature.

J. Collins
NAME: (Collins)