

MAINE STATE LEGISLATURE

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STATE OF MAINE
 SENATE
 110TH LEGISLATURE
 FIRST REGULAR SESSION

SENATE AMENDMENT "A" to S.P. 74, L.D. 111, Bill, "AN ACT to Exempt Certain Aquaculture Workers under the Workers' Compensation Law."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'Sec. 1. 39 MRSA §2, sub-§11 is enacted to read:

11. Aquaculture. "Aquaculture" means the commercial culture or husbandry of oysters, clams, scallops, mussels, salmon or trout.

Sec. 2. 39 MRSA §4, as amended by PL 1979, c. 663, §243, is further amended to read:

§4. Applicability to certain actions and employers; exemptions

Section 3 shall not apply to actions to recover damages for the injuries aforesaid, or for death resulting from such injuries, sustained by employees engaged in domestic service or in agriculture or aquaculture as seasonal \longleftrightarrow or casual farm laborers, provided that in order to qualify for this exemption, an employer of an employee engaged in aquaculture must be covered by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000. "Casual" is defined as occasional, irregular or incidental. "Seasonal" refers to farm laborers engaged in agricultural or aquacultural employment beginning at or after the commencement of the planting or seeding season and terminating at or before the completion of the harvest season. Section 3 shall not apply to actions to recover damages for the injuries aforesaid or for death

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resulting from such injuries, sustained by employees of an employer who has secured the payment of compensation in conformity with sections 21 to 27. Such employers shall be exempt from civil actions because of such injuries either at common law or under sections 141 to 148, under Title 14, sections 8101 to 8118 or under Title 18-A, section 2-804. This exemption from liability shall also extend to all employees, supervisors, officers and directors of the employer for any personal injury or occupational disease arising out of and in the course of employment. Section 3 shall not apply to actions to recover damages for the injuries aforesaid, or for death resulting from such injuries sustained by the farm or aquacultural laborers of an employer who is covered by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$1,000.

Sec. 3. 39 MRSA §21, sub-§1, as last amended by PL 1975, c. 376, is repealed and the following enacted in its place:

1. Private employers. Every private employer shall be subject to this Act and shall secure the payment of compensation in conformity with this section and sections 22 to 27 with respect to all employees, subject to the provisions stated in this section.

Any private employer who has not secured the payment of compensation under this section and sections 22 to 27 shall not be entitled, in a civil action brought by an employee or his representative, for personal injuries or death arising out of and in the course of his employment, to the defense set forth in section 3. Further, the employee of any such employer may, in lieu of bringing such a civil action, claim compensation from such employer under this Act.

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~~The following employers shall not be held liable under this section for securing the payment of compensation in conformity with this section and sections 22 to 27 with respect to the employees listed, nor deprived of the defenses listed in section 3:~~

- A. Employers of employees engaged in domestic service;
- B. Employers of employees engaged in agriculture as seasonal or casual farm laborers;
- C. Employers of 4 or fewer farm or aquaculture laborers, provided that the employer maintains coverage by an employer's liability insurance policy as provided in section 4; or
- D. Employers of employees engaged in aquaculture as seasonal or casual laborers, provided that the employer maintains coverage by an employer's liability insurance policy as provided in section 4.'

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This amendment clarifies/ambiguities present in both the existing law and the bill. The final product here is a clearer presentation of the present law, with no changes made except regarding the aquaculture industry.

The aquaculture portion of the legislation provides for equivalent treatment between agricultural and aquacultural employees in all but one respect: under this version, employers of seasonal or casual aquacultural laborers must be covered by employer's liability insurance in order to qualify for the special treatment.

This amendment also adds the words "commercial," "salmon " and "trout" to the definition of aquaculture.

(Sen. C. Sewall)
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COUNTY: Lincoln

(Filing No. S-25)

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