

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 74

6  
7 H.P. 68

House of Representatives, January 5, 1983

8 Reference to the Committee on Labor suggested and ordered printed.

9 EDWIN H. PERT, Clerk  
10

Presented by Representative Webster of Farmington.

Cosponsor: Representative Dexter of Kingfield.  
11

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Permit Certain Small Businesses  
18 to Exempt Themselves from the Workers'  
19 Compensation Law.  
20

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

23 Sec. 1. 39 MRSA §2, sub-§1-A, as amended by PL  
24 1981, c. 283, §1, is further amended to read:

25 1-A. Private employer. The term "private  
26 employer" includes corporations, partnerships and  
27 natural persons. Any agricultural employer otherwise  
28 included under this Act is not included when harvest-  
29 ing 150 cords of wood or less each year from farm  
30 wood lots, provided that, in order to qualify for  
31 this exemption, the employer must be covered by an  
32 employer's liability insurance policy with total  
33 limits of not less than \$25,000 and medical payment  
34 coverage of not less than \$1,000. After January 1,  
35 1983, a private employer is not included if:

1 A. He does not employ more than 2 persons regu-  
2 larly in the usual course of business;

3 B. He provides at least \$200,000 worth of lia-  
4 bility insurance for each employee in lieu of the  
5 coverage available under this Act; and

6 C. Each new employee states in writing that he  
7 waives all benefits and privileges provided by  
8 this Act in exchange for the coverage required  
9 under paragraph B, and that he was informed of  
10 his right to be covered under this Act. This  
11 waiver cannot be exercised by employees currently  
12 insured under this Act as long as they work for  
13 their current employer.

14 Sec. 2. 39 MRSA §2, sub-§5, ¶A, as amended by PL  
15 1981, c. 283, §2, is further amended to read:

16 A. "Employee" shall include officials of the  
17 State, counties, cities, towns, water districts  
18 and all other quasi-public corporations of a  
19 similar character, every duly elected or  
20 appointed executive officer of a private corpora-  
21 tion, other than a charitable, religious, educa-  
22 tional or other nonprofit corporation, and every  
23 person in the service of another under any con-  
24 tract of hire, express or implied, oral or writ-  
25 ten, except:

26 (1) Persons engaged in maritime employment,  
27 or in interstate or foreign commerce, who  
28 are within the exclusive jurisdiction of  
29 admiralty law or the laws of the United  
30 States; and persons operating as sternmen as  
31 defined in Title 36, section 5102, subsec-  
32 tion 8-A;

33 (2) Any person whose employment is not in  
34 the usual course of the business, profes-  
35 sion, trade or occupation of his employer.  
36 Firefighters and policemen shall be deemed  
37 employees within the meaning of this Act.  
38 Employers who hire workmen within this State  
39 to work outside the State may agree with  
40 such workmen that the remedies under this  
41 Act shall be exclusive as regards injuries

1 received outside this State arising out of  
2 and in the course of such employment; and  
3 all contracts of hiring in this State,  
4 unless otherwise specified, shall be pre-  
5 sumed to include such agreement. Any refer-  
6 ence to an employee who has been injured  
7 shall, when the employee is dead, include  
8 his legal representatives, dependents and  
9 other persons to whom compensation may be  
10 payable;

11 (3) Notwithstanding any other provisions of  
12 this Act, any charitable, religious, educa-  
13 tional or other nonprofit corporation that  
14 may be or become an assenting employer under  
15 this Act, may cause any duly elected or  
16 appointed executive officer to be an  
17 employee of such corporation by specifically  
18 including such executive officer among those  
19 to whom such corporation secures payment of  
20 compensation in conformity with subchapter  
21 II; and such executive officer shall remain  
22 an employee of such corporation under this  
23 Act while such payment is so secured. With  
24 respect to any such corporation that secures  
25 compensation by making a contract of work-  
26 ers' compensation insurance, specific inclu-  
27 sion of such executive officer in such con-  
28 tract shall cause such officer to be an  
29 employee of such corporation under this Act;

30 (4) Any person who states in writing to the  
31 commission that he waives all the benefits  
32 and privileges provided by the workers' com-  
33 pensation laws, provided that the commission  
34 shall have found such person to be a bona  
35 fide owner of at least 20% of the outstand-  
36 ing voting stock of the corporation by which  
37 he is employed and that this waiver was not  
38 a prerequisite condition to employment.

39 Any person may revoke or rescind his waiver  
40 upon 30 days' written notice to the commis-  
41 sion and his employer. The parent, spouse or  
42 child of a person who has made a waiver  
43 under the previous sentence may state, in  
44 writing, that he waives all the benefits and

1 privileges provided by the workers' compen-  
2 sation laws if the commissioner finds that  
3 the waiver is not a prerequisite condition  
4 to employment and if the parent, spouse or  
5 child is employed by the same corporation  
6 which employs the person who has made the  
7 first waiver;

8 (5) The parent, spouse or child of a sole  
9 proprietor who is employed by that sole pro-  
10 prietor or the parent, spouse or child of a  
11 partner who is employed by the partnership  
12 of that partner may state, in writing, that  
13 he waives all the benefits and privileges  
14 provided by the workers' compensation laws  
15 if the commission finds that the waiver is  
16 not a prerequisite condition to employment;

17 (6) Employees of an agricultural employer  
18 when harvesting 150 cords of wood or less  
19 each year from farm wood lots, provided that  
20 the employer is covered under an employer's  
21 liability insurance policy as required in  
22 subsection 1-A; and

23 (7) Any employee of a business which does  
24 not employ more than 2 persons regularly in  
25 the usual course of the business and who has  
26 waived in writing all benefits and privi-  
27 leges of the Workers' Compensation Act.

28 Sec. 3. 39 MRSA §24, as amended by PL 1977, c.  
29 696, §403, is further amended by adding at the end a  
30 new paragraph to read:

31 For the purpose of becoming subject to this Act  
32 under this section, the term "private employer"  
33 includes any corporation, partnership or natural  
34 person who does not employ more than 2 persons regu-  
35 larly in the usual course of the business.

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STATEMENT OF FACT

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The purpose of this bill is to ease the financial burden of workers' compensation insurance premiums on extremely small private businesses in Maine. The bill accomplishes this by allowing these firms the option of not being covered by the Workers' Compensation Act provided they provide adequate private liability insurance for their employees.

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The election provided by this bill is available to employers only if (1) they employ no more than 2 employees in the usual course of their business; (2) they provide at least \$200,000 worth of liability insurance for each employee; and (3) each employee knowingly waives his right to coverage under the Workers' Compensation Act in exchange for this alternative coverage.

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Finally, the bill provides that employees currently insured under the Workers' Compensation Act cannot elect this alternative coverage as long as they work for their present employer. This provision will protect such employees from being forced to make this election with their employer.

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