

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

(New Draft of H.P. 68, L.D. 74)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 600

H.P. 512

House of Representatives, February 9, 1983

Reported by the Minority from the Committee on Labor and printed
under Joint Rule No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

**AN ACT to Permit Certain Small Businesses
to Exempt Themselves from the Workers'
Compensation Law.**

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

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

1-A. Private employer. The term "private
employer" includes corporations, partnerships and
natural persons. Any agricultural employer otherwise
included under this Act is not included when harvest-
ing 150 cords of wood or less each year from farm
wood lots, provided that, in order to qualify for
this exemption, the employer must be covered by an
employer's liability insurance policy with total

1 limits of not less than \$25,000 and medical payment
2 coverage of not less than \$1,000. After January 1,
3 1983, a private employer is not included if:

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

6 B. He provides at least \$200,000 worth of lia-
7 bility insurance and comprehensive major medical
8 insurance for each employee in lieu of the cover-
9 age available under this Act; and

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

18 Sec. 2. 39 MRSA §2, sub-§5, ¶A, as amended by PL
19 1981, c. 283, §2, is further amended to read:

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

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

37 (2) Any person whose employment is not in
38 the usual course of the business, profes-
39 sion, trade or occupation of his employer.
40 Firefighters and policemen shall be deemed

1 employees within the meaning of this Act.
2 Employers who hire workmen within this State
3 to work outside the State may agree with
4 such workmen that the remedies under this
5 Act shall be exclusive as regards injuries
6 received outside this State arising out of
7 and in the course of such employment; and
8 all contracts of hiring in this State,
9 unless otherwise specified, shall be pre-
10 sumed to include such agreement. Any refer-
11 ence to an employee who has been injured
12 shall, when the employee is dead, include
13 his legal representatives, dependents and
14 other persons to whom compensation may be
15 payable;

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

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

1 Any person may revoke or rescind his waiver
2 upon 30 days' written notice to the commis-
3 sion and his employer. The parent, spouse or
4 child of a person who has made a waiver
5 under the previous sentence may state, in
6 writing, that he waives all the benefits and
7 privileges provided by the workers' compen-
8 sation laws if the commissioner finds that
9 the waiver is not a prerequisite condition
10 to employment and if the parent, spouse or
11 child is employed by the same corporation
12 which employs the person who has made the
13 first waiver;

14 (5) The parent, spouse or child of a sole
15 proprietor who is employed by that sole pro-
16 prietor or the parent, spouse or child of a
17 partner who is employed by the partnership
18 of that partner may state, in writing, that
19 he waives all the benefits and privileges
20 provided by the workers' compensation laws
21 if the commissioner finds that the waiver is
22 not a prerequisite condition to employment;

23 (6) Employees of an agricultural employer
24 when harvesting 150 cords of wood or less
25 each year from farm wood lots, provided that
26 the employer is covered under an employer's
27 liability insurance policy as required in
28 subsection 1-A; and

29 (7) Any employee of a business which does
30 not employ more than 2 persons regularly in
31 the usual course of the business and who has
32 waived in writing all benefits and privi-
33 leges of the Workers' Compensation Act.

34 Sec. 3. 39 MRSA §24, as amended by PL 1977, c.
35 696, §403, is further amended by adding at the end a
36 new paragraph to read:

37 For the purpose of becoming subject to this Act
38 under this section, the term "private employer"
39 includes any corporation, partnership or natural
40 person who does not employ more than 2 persons regu-
41 larly in the usual course of the business.

1
2
3
4
5
6
7
8

9
10
11
12
13
14
15
16

17
18
19
20
21
22

23
24
25

26

STATEMENT OF FACT

The purpose of this new draft 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.

The election provided by this new draft 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.

Finally, the new draft 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.

The new draft adds the requirement that the employer must provide at least \$25,000 worth of medical payment insurance for each employee.

2366020383