

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1079

6  
7 S.P. 358

In Senate, March 7, 1983

8 Referred to the Committee on Labor. Sent down for concurrence and  
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Dutremble of York.

Cosponsors: Senator Sewall of Lincoln and Representative Lewis of  
11 Auburn.

12 STATE OF MAINE  
13

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

17 AN ACT to Establish a Workers'  
18 Compensation Hearing Exemption for  
19 Agricultural Employers' Liability  
20 Insurance Claim Disputes.  
21

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

24 39 MRSA §96-B is enacted to read:

25 §96-B. Expedited decision on claim of agricultural  
26 exemption

27 1. Claim of exemption; answer. If an employer  
28 carries employer liability insurance as required by  
29 sections 2 and 21 and claims to fall within one of  
30 the agricultural exemptions in section 2 or 21, the  
31 employer may raise this either in an answer filed  
32 under section 97 or by motion. The employer shall

1 file such a motion with the commission within 5 days  
2 after receipt of the employee's petition and shall  
3 mail a copy thereof to the employee. The employer  
4 shall file affidavits, records, proof of insurance  
5 and other evidence supporting his claim for an exemp-  
6 tion, together with the motion. Within 5 days after  
7 receipt of the employer's motion, the employee may  
8 file a reply with the commission, together with affi-  
9 davits, records and other evidence supporting his  
10 claim that the employer does not fall within an agri-  
11 cultural exemption. If the employee files a reply, a  
12 copy thereof shall be mailed to the employer.

13 2. Expedited decision. When the employee has  
14 filed a reply or the time for filing such a reply has  
15 expired, the commission shall promptly rule on  
16 whether the employer falls within an agricultural exem-  
17 ption. Whenever possible, the commission shall  
18 attempt to decide this issue based on the documentary  
19 evidence submitted by the parties, but may hold a  
20 hearing solely on this issue if the documentary evi-  
21 dence is insufficient, after at least a 5-day notice  
22 to all parties or their attorneys of record.

23 If the commission rules that the employer does not  
24 fall within an agricultural exemption, he shall  
25 schedule a hearing on the employee's petition as pro-  
26 vided in section 98. At that hearing, the employer  
27 may again raise the issue of exemption.

28 If the commission rules that the employer does fall  
29 within an exemption, he shall issue a decree consist-  
30 ent with that ruling.

31 3. Appeal. There is no appeal from the commis-  
32 sion's decision, prior to a hearing on the employee's  
33 petition, ruling against the employer's exemption.  
34 If the commission is of the opinion that a question  
35 of law involved in the ruling ought to be determined  
36 by the Appellate Division prior to any further pro-  
37 ceedings, it may on motion of the aggrieved party  
38 report the case to the division for that purpose and  
39 stay all further proceedings, except those which are  
40 necessary to preserve the rights of the parties with-  
41 out making a decision.

1 If the commission rules that the employer does fall  
2 within the agricultural exemption, the employee may  
3 appeal that decision to the division as provided in  
4 section 103-B.

5 STATEMENT OF FACT

6 The purpose of this bill is to provide a method  
7 for an expedited decision on whether an employer  
8 falls within one of the agricultural exemptions con-  
9 tained in Title 39, sections 2 and 21 of the workers'  
10 compensation laws. At present, an agricultural  
11 employer has no means to show that he is exempt from  
12 that Act other than proceeding to a full hearing.

13 Under this bill, an employer served with a peti-  
14 tion may file a motion raising only one issue, that  
15 of the agricultural exemption, together with documen-  
16 tary evidence supporting his claim. An employee may  
17 file a reply together with documentary evidence sup-  
18 porting his claim that the employer does not fall  
19 within an exemption. The commission shall decide  
20 this one issue, if possible, using the documentary  
21 evidence to eliminate the need for the parties to  
22 attend a hearing. However, the commission may hold a  
23 hearing on this issue if the documentary evidence is  
24 insufficient.

25 If the commission rules that the employer does  
26 not fall within an agricultural exemption, a hearing  
27 on the employee's petition shall be scheduled under  
28 Title 39, section 98. There shall be no other appeal  
29 from such a ruling other than if the commission is of  
30 the opinion that a question of law is involved that  
31 ought to be determined by the Appellate Division  
32 before further proceedings, but the employer may  
33 again raise the question of exemption at the full  
34 hearing.

35 If the commission rules that an employer does  
36 fall within an agricultural exemption, a decree to  
37 that effect shall be issued. An employee may appeal  
38 such a decision to the Appellate Division as provided  
39 in section 103-B.

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