

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1222, L.D. 1629)
2 (New Title)

3 FIRST REGULAR SESSION
4

5 ONE HUNDRED AND ELEVENTH LEGISLATURE
6

7 Legislative Document

No. 1742

8
9 H.P. 1313 House of Representatives, June 9, 1983

10 Reported by the Majority from the Committee on Labor and printed
11 under Joint Rule 2.

12 Original bill presented by Representative Tuttle of Sanford. Cosponsored
13 by Representative Tammaro of Baileyville, Representative Bonney of
14 Falmouth and Senator Dutremble of York.

EDWIN H. PERT, Clerk

13

14 STATE OF MAINE
15

16 IN THE YEAR OF OUR LORD
17 NINETEEN HUNDRED AND EIGHTY-THREE
18

19 AN ACT to Debar from State Contracts
20 Employers Guilty of Serious, Willful and
21 Repeated Violations of Safety Standards.
22

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

25 26 MRSA §1402 is enacted to read:

26 §1402. Debarment from state contracts

27 1. Definitions. As used in this section, unless
28 the context indicates otherwise, the following terms
29 have the following meaning.

30 A. "Repeated violation" means a violation of any
31 legal requirement under chapter 22 or under the
32 United States Code, Title 29, Chapter 15, where

1 a previous violation of the same requirement was
2 found which involved as substantially similar
3 hazard.

4 B. "Serious violation" means a violation where
5 there is a substantial probability that death or
6 serious physical harm could result from a condi-
7 tion which exists, or from one or more practices,
8 means, methods, operations or processes which
9 have been adopted or are in use, in that place of
10 employment, unless the employer did not, and
11 could not with the exercise of reasonable dili-
12 gence, know of the presence of the violation.

13 C. "Willful violation" means a violation commit-
14 ted intentionally or knowingly with an inten-
15 tional disregard of, or plain indifference to,
16 legal requirements under chapter 22 or under the
17 United States Code, Title 29, Chapter 15.

18 2. Debarment. The Department of Labor shall,
19 after hearing, debar from participation in state con-
20 tracts for 2 years any person, partnership, corpora-
21 tion or other public or private entity found to have
22 committed a serious, willful violation or serious,
23 repeated violations of a standard under chapter 22 or
24 under the United States Occupational Safety and
25 Health Act of 1970, United States Code, Title 29,
26 Chapter 15, and either the time for filing an appeal
27 of the determination of that violation has expired or
28 the appeals process has been exhausted.

29 The department may make an exception to this
30 section if the condition giving rise to the violation
31 has been abated.

32 STATEMENT OF FACT

33 The purpose of this new draft is to clarify the
34 circumstances that will lead to debarment from parti-
35 cipation in state contracts. The Department of Labor
36 will debar an employer from participating in state
37 contracts for 2 years if the employer has committed a
38 serious, willful violation or serious, repeated
39 violations of federal OSHA standards or the state's
40 chemical substance identification laws. The viola-

1 tions must meet one of these standards, thereby
2 assuring that relatively minor violations will not
3 lead to debarment. Procedural safeguards to the
4 employer include a hearing, the requirement that the
5 appeals process be complete before debarment may
6 occur and the department's ability to make an excep-
7 tion if the hazardous condition that led to the
8 violation has been corrected.

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