

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION

2
3 ONE HUNDRED AND TWELFTH LEGISLATURE

4
5 Legislative Document

No. 368

6
7 S.P. 128

In Senate, February 1, 1985

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

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

10 Presented by Senator Chalmers of Knox.

Cosponsored by Representative Manning of Portland, Senator Carpenter of Aroostook and Representative Willey of Hampden.

11
12 STATE OF MAINE

13
14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE

16
17 AN ACT to Clarify the Status of Workfare
18 Recipients under the Workers'
19 Compensation Act.
20

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

23 39 MRSA §2, sub-§5, ¶A, as amended by PL 1983, c.
24 554, is further amended to read:

25 A. "Employee" shall include officials of the
26 State, counties, cities, towns, water districts
27 and all other quasi-public corporations of a sim-
28 ilar character, every duly elected or appointed
29 executive officer of a private corporation, other
30 than a charitable, religious, educational or oth-
31 er nonprofit corporation, and every person in the
32 service of another under any contract of hire,
33 express or implied, oral or written, except:

34 (1) Persons engaged in maritime employment,
35 or in interstate or foreign commerce, who

1 are within the exclusive jurisdiction of admiralty law or the laws of the United States; and persons operating as sternmen as defined in Title 36, section 5102, subsection 8-A;

6 (2) An independent contractor. Firefighters, including volunteer firefighters who are active members of a volunteer firefighters' association, as defined in Title 30, section 3771; volunteer emergency medical services' persons, as defined in Title 32, section 83, subsection 12; and policemen shall be deemed employees within the meaning of this Act. In computing the average weekly wage of an injured volunteer firefighter or volunteer emergency services' person, the average weekly wage shall be taken to be the earning capacity of the injured employee in the occupation in which he is regularly engaged. Employers who hire workmen within this State to work outside the State may agree with such workmen that the remedies under this Act shall be exclusive as regards injuries received outside this State arising out of and in the course of such employment; and all contracts of hiring in this State, unless otherwise specified, shall be presumed to include such agreement. Any reference to an employee who has been injured shall, when the employee is dead, include his legal representatives, dependents and other persons to whom compensation may be payable;

34 (3) Notwithstanding any other provisions of this Act, any charitable, religious, educational or other nonprofit corporation that may be or become an assenting employer under this Act, may cause any duly elected or appointed executive officer to be an employee of such corporation by specifically including such executive officer among those to whom such corporation secures payment of compensation in conformity with subchapter II; and such executive officer shall remain an employee of such corporation under this

1 Act while such payment is so secured. With
2 respect to any such corporation that secures
3 compensation by making a contract of work-
4 ers' compensation insurance, specific inclu-
5 sion of such executive officer in such con-
6 tract shall cause such officer to be an em-
7 ployee of such corporation under this Act;

8 (4) Any person who states in writing to the
9 commission that he waives all the benefits
10 and privileges provided by the workers' com-
11 pensation laws, provided that the commission
12 shall have found such person to be a bona
13 fide owner of at least 20% of the outstand-
14 ing voting stock of the corporation by which
15 he is employed and that this waiver was not
16 a prerequisite condition to employment.

17 Any person may revoke or rescind his waiver
18 upon 30 days' written notice to the commis-
19 sion and his employer. The parent, spouse or
20 child of a person who has made a waiver un-
21 der the previous sentence may state, in
22 writing, that he waives all the benefits and
23 privileges provided by the workers' compen-
24 sation laws if the commissioner finds that
25 the waiver is not a prerequisite condition
26 to employment and if the parent, spouse or
27 child is employed by the same corporation
28 which employs the person who has made the
29 first waiver;

30 (5) The parent, spouse or child of a sole
31 proprietor who is employed by that sole pro-
32 prietor or the parent, spouse or child of a
33 partner who is employed by the partnership
34 of that partner may state, in writing, that
35 he waives all the benefits and privileges
36 provided by the workers' compensation laws
37 if the commission finds that the waiver is
38 not a prerequisite condition to employment;
39 ~~or~~

40 (6) Employees of an agricultural employer
41 when harvesting 150 cords of wood or less
42 each year from farm wood lots, provided that
43 the employer is covered under an employer's

1 liability insurance policy as required in
2 subsection 1-A; or

3 (7) General assistance recipients, required
4 to perform services for a municipality as a
5 condition of receiving that assistance,
6 shall be deemed employees of that municipal-
7 ity within the meaning of this Act.

8 (a) The benefits available for employ-
9 ees defined in this subparagraph shall
10 cover all reasonable and necessary med-
11 ical expenses and an amount for perma-
12 nent impairment. The amount for perma-
13 nent impairment shall be calculated by
14 computing the weekly wage for the em-
15 ployee as 40 hours multiplied by the
16 minimum wage in the State multiplied
17 against the schedules contained in sec-
18 tions 56 and 56-A.

19 (b) The Superintendent of Insurance
20 shall be responsible for the establish-
21 ment of a single classification for
22 general assistance recipients covered
23 by this subparagraph together with an
24 appropriate rate to be used universally
25 for all general assistance workfare
26 premium calculations.

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STATEMENT OF FACT

2 Under a law passed in 1973, municipalities may
3 require able-bodied general assistance recipients to
4 work for the municipality in return for the assist-
5 ance given. It has always been assumed that if some-
6 one was injured while performing these services, they
7 were covered by the Workers' Compensation Act.

8 The purpose of this bill is 3-fold:

9 1. To clarify what has always been assumed, that
10 workfare recipients are considered employees under
11 the Workers' Compensation Act;

12 2. To require the Bureau of Insurance to estab-
13 lish a single classification for general assistance
14 recipients. Currently, they perform work falling un-
15 der a variety of job classifications, making it ex-
16 tremely difficult to know which classification to
17 base premium costs on; and

18 3. To limit workers' compensation coverage for
19 workfare recipients to medical expenses and where ap-
20 plicable, an amount for permanent impairment.

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