

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1384, L.D. 1953)  
2 SECOND REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 2209

8 H.P. 1564 House of Representatives, March 18, 1986  
9 Reported by the Majority from the Committee on Labor and printed  
10 under Joint Rule 2. Original bill sponsored by Representative Ruhlin of  
11 Brewer. Cosponsored by Senator Tuttle of York, Representative Tammaro of  
Baileyville and Representative Hale of Sanford.

EDWIN H. PERT, Clerk

12  
13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-SIX  
17

18 AN ACT to Require Employers to Notify  
19 Employees of the Termination of Group  
20 Insurance.  
21

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

24 26 MRSA §629-B is enacted to read:

25 §629-B. Employee health benefit plans

26 1. Application. This section applies to health  
27 benefit plans which an employer provides or agrees to  
28 provide to his employees. It does not apply to em-  
29 ployee health benefit plans separately provided by  
30 any employee organization or bargaining agent, re-  
31 gardless of any financial contribution to that plan  
32 by the employer.

33 2. Failure to implement a health benefit plan.  
34 If an employer fails to implement a health benefit

1 plan which the employer had agreed to provide to his  
2 employees, the employer shall notify the employees of  
3 the failure to implement the plan as soon as possible  
4 after he knows that he will not implement the plan.  
5 The employer is liable for benefits which would have  
6 been payable to a covered employee, if the health  
7 benefit plan had been in force during the period of  
8 time from the date which the employer had agreed to  
9 implement the health benefit plan, until the employer  
10 gives the employee notice of his failure or inability  
11 to provide the health benefit plan.

12 3. Termination or change in carriers of a health  
13 benefit plan. If an employer terminates a health  
14 benefit plan for employees, if a health benefit plan  
15 for employees is terminated for failure to pay premi-  
16 um or for any other reason or if the insurance carri-  
17 er administering the health benefit plan is changed,  
18 the employer shall notify the covered employees of  
19 the termination of their coverage or the change of  
20 carriers at least 10 days before the termination or  
21 the change of carriers takes effect. The employer is  
22 liable for benefits which would have been payable to  
23 a covered employee had the health benefit plan re-  
24 mained in force and not been terminated or the carri-  
25 er changed during the period of time following the  
26 termination of or change in carrier of the health  
27 benefit plan until the employee is given notice of  
28 the termination or the change of carrier.

29 4. Notice. Whenever notice to an employee is  
30 required under this section, the notice must:

31 A. Be in writing; and

32 B. Be delivered:

33 (1) In person to the employee;

34 (2) To the employee by the same means as  
35 and along with wages due the employee; or

36 (3) By mailing the notice to the employee's  
37 last known address.

38 5. Wage withholdings. When an employer makes  
39 withholdings from employees' wages for contributions

1 to health benefit plans, the employer shall be the  
2 trustee of the funds until they are paid to the  
3 health carrier. The employer is liable to an employ-  
4 ee for any wages withheld for the purpose of financ-  
5 ing an employee health benefit plan and which are not  
6 actually used for that purpose.

7 6. Action; parties. An action for benefits un-  
8 der this section may be brought by:

9 A. The affected employee or employees; or

10 B. The Department of Labor on behalf of the em-  
11 ployee or employees.

12 7. Lien. Whoever loses wages or medical bene-  
13 fits due to an employer's violation of this section  
14 shall have a lien against the employer's property or  
15 assets in any bankruptcy proceeding for the full  
16 amount of the wages wrongfully withheld and the medi-  
17 cal benefits for which the employer is liable under  
18 this section. The lien shall be automatically per-  
19 fected retroactive to the date wages are wrongfully  
20 withheld or medical expenses incurred which otherwise  
21 would have been covered by a health benefit plan.  
22 The lien shall be prior to all other liens.

23 8. Exceptions. The following exceptions apply.

24 A. An employer is not liable under this section  
25 for benefits which would have been payable under  
26 an employee health benefit plan if the failure to  
27 provide the notice required by subsection 2 or 3  
28 is due to circumstances beyond the control of the  
29 employer.

30 B. This section does not apply to any termina-  
31 tion of or failure to implement an employee  
32 health benefit plan which results from or occurs  
33 during a strike or lockout. Section 634 applies  
34 to the termination of any employee health benefit  
35 plan during a strike.

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STATEMENT OF FACT

2           This new draft requires employers to notify em-  
3 ployees of the termination or failure to implement an  
4 employee health benefit plan or of the change in in-  
5 surance carriers administering the plan. The lack of  
6 any notification requirement for termination has re-  
7 sulted in individual workers being uninsured when  
8 they believed that they were covered under a group  
9 policy provided by their employer. This new draft  
10 imposes liability on the employer for any benefits  
11 which would have been payable to a covered employee  
12 had the health benefit plan been in force, until the  
13 employer notifies the employee of the termination,  
14 failure to implement or change of carriers. This new  
15 draft fully addresses the problems in this area which  
16 have been brought to the attention of the Legisla-  
17 ture.

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