

# MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1384, L.D. 1953)  
2 (New Title)  
3 SECOND REGULAR SESSION  
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5 ONE HUNDRED AND TWELFTH LEGISLATURE  
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7 Legislative Document

No. 2210

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9 H.P. 1565 House of Representatives, March 18, 1986  
10 Reported by the Minority from the Committee on Labor and printed  
11 under Joint Rule 2. Original bill sponsored by Representative Ruhlin of  
12 Brewer. Cosponsored by Senator Tuttle of York, Representative Tammaro of  
Baileyville and Representative Hale of Sanford.

EDWIN H. PERT, Clerk

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14 STATE OF MAINE  
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16 IN THE YEAR OF OUR LORD  
17 NINETEEN HUNDRED AND EIGHTY-SIX  
18

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19 AN ACT to Require Employers to Notify  
20 Employees of the Termination or  
21 Substantial Modification of Group  
22 Insurance.  
23

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

26 26 MRSA §629-B is enacted to read:

27 §629-B. Employee health benefit plans

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

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

14           3. Termination or substantial modification of a  
15 health benefit plan. If an employer terminates or  
16 substantially modifies a health benefit plan for em-  
17 ployees, or if a health benefit plan for employees is  
18 terminated for failure to pay premium or for any oth-  
19 er reason, the employer shall notify the covered em-  
20 ployees of the termination or substantial modifica-  
21 tion of their coverage at least 10 days before that  
22 termination or substantial modification takes effect.  
23 The employer is liable for benefits which would have  
24 been payable to a covered employee had the health  
25 benefit plan remained in force and not been termi-  
26 nated or substantially modified during the period of  
27 time following the termination or substantial modifi-  
28 cation of the health benefit plan until the employee  
29 is given notice of the termination or modification.

30           A. As used in this section, "substantial modifi-  
31 cation" means any change in the level of benefits  
32 provided under an employee health benefit plan or  
33 a change in the insurance carrier administering  
34 the plan.

35           4. Notice. Wherever notice to an employee is  
36 required under this section, the notice must:

37           A. Be in writing; and

38           B. Be delivered:

39                 (1) In person to the employee;

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

1                   (3) By mailing the notice to the employee's  
2                   last known address.

3           5. Wage withholdings. When an employer makes  
4 withholdings from employees' wages for contributions  
5 to health benefit plans, the employer shall be the  
6 trustee of the funds until they are paid to the  
7 health carrier. The employer is liable to an employ-  
8 ee for any wages withheld for the purpose of financ-  
9 ing an employee health benefit plan and which are not  
10 actually used for that purpose.

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

13           A. The affected employee or employees; or

14           B. The Department of Labor on behalf of the em-  
15 ployee or employees.

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

27           8. Exceptions. The following exceptions apply.

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

34           B. This section does not apply to any termina-  
35 tion of or failure to implement an employee  
36 health benefit plan which results from or occurs  
37 during a strike or lockout. Section 634 applies  
38 to the termination of any employee health benefit  
39 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. The lack of any noti-  
5           fication requirement for termination has resulted in  
6           individual workers being uninsured when they believed  
7           that they were covered under a group policy provided  
8           by their employer. This new draft also retains the  
9           original requirement for notice of any substantial  
10          modification in an existing plan. "Substantial modi-  
11          fication" is defined to include any change in the  
12          level of benefits provided under a plan, or a change  
13          in the insurance carrier administering the plan. Re-  
14          quiring notice for these changes as well as in the  
15          event of wholesale termination is desirable in order  
16          to protect a worker from obtaining certain medical  
17          treatment, believing that his health benefit plan  
18          provides coverage for that treatment, only to later  
19          discover that his benefits have been changed and that  
20          the treatment is no longer covered. This new draft  
21          also imposes liability on the employer for any bene-  
22          fits which would have been payable to a covered em-  
23          ployee had the health benefit plan been in force, un-  
24          til the employer notifies the employee of the termi-  
25          nation, failure to implement or substantial modifica-  
26          tion.

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