

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE  
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5 Legislative Document

NO. 118  
6

7 H.P. 108 House of Representatives, January 28, 1987  
8 Reference to the Committee on Labor suggested and ordered  
9 printed.

EDWIN H. PERT, Clerk

Presented by Representative WARREN of Scarborough.

10 Cosponsored by Representatives SWAZEY of Bucksport,  
NADEAU of Saco and Senator ANDREWS of Cumberland.

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12 STATE OF MAINE  
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14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-SEVEN  
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17 AN ACT Concerning Mandatory Workfare  
18 Participants.  
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20 Be it enacted by the People of the State of Maine as  
21 follows:

22 39 MRSA §2, sub-§5, ¶A, as amended by PL 1985, c.  
23 819, Pt. A, §44, is further amended to read:

24 5. Employee.

25 A. "Employee" includes officials of the State,  
26 counties, cities, towns, water districts, all in-  
27 dividuals required to perform work for a munici-  
28 pality or a nonprofit organization as a condition  
29 of receiving general assistance pursuant to Title  
30 22, section 4316-A, subsection 2, and all other  
31 quasi-public corporations of a similar character,  
32 every duly elected or appointed executive officer

1 of a private corporation, other than a charita-  
2 ble, religious, educational or other nonprofit  
3 corporation, and every person in the service of  
4 another under any contract of hire, express or  
5 implied, oral or written, except:

6 (1) Persons engaged in maritime employment  
7 or in interstate or foreign commerce, who  
8 are within the exclusive jurisdiction of ad-  
9 miralty law or the laws of the United  
10 States; and persons operating as sternmen as  
11 defined in Title 36, section 5102, subsec-  
12 tion 8-A;

13 (2) Firefighters, including volunteer fire-  
14 fighters who are active members of a volun-  
15 teer fire fighters' association, as defined  
16 in Title 30, section 3771; volunteer emer-  
17 gency medical services' persons, as defined  
18 in Title 32, section 83, subsection 12; and  
19 policemen shall be deemed employees within  
20 the meaning of this Act. In computing the  
21 average weekly wage of an injured volunteer  
22 firefighter or volunteer emergency services'  
23 person, the average weekly wage shall be  
24 taken to be the earning capacity of the in-  
25 jured employee in the occupation in which he  
26 is regularly engaged. Employers who hire  
27 workmen within this State to work outside  
28 the State may agree with such workmen that  
29 the remedies under this Act shall be exclu-  
30 sive as regards injuries received outside  
31 this State arising out of and in the course  
32 of that employment; and all contracts of  
33 hiring in this State, unless otherwise spec-  
34 ified, shall be presumed to include such an  
35 agreement. Any reference to an employee who  
36 has been injured shall, when the employee is  
37 dead, include his legal representatives, de-  
38 pendents and other persons to whom compensa-  
39 tion may be payable;

40 (3) Notwithstanding any other provisions of  
41 this Act any charitable, religious, educa-  
42 tional or other nonprofit corporation that  
43 may be or may become an assenting employer  
44 under this Act may cause any duly elected or

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appointed executive officer to be an employee of the corporation by specifically including the executive officer among those to whom the corporation secures payment of compensation in conformity with subchapter II; and the executive officer shall remain an employee of the corporation under this Act while such payment is so secured. With respect to any corporation that secures compensation by making a contract of workers' compensation insurance, specific inclusion of the executive officer in the contract shall cause the officer to be an employee of the corporation under this Act;

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(4) Any person who states in writing to the commission that he waives all the benefits and privileges provided by the workers' compensation laws, provided that the commission shall have found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which he is employed and that this waiver was not a prerequisite condition to employment.

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Any person may revoke or rescind his waiver upon 30 days' written notice to the commission and his employer. The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that he waives all the benefits and privileges provided by the workers' compensation laws if the commissioner finds that the waiver is not a prerequisite condition to employment and if the parent, spouse or child is employed by the same corporation which employs the person who has made the first waiver;

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(5) The parent, spouse or child of a sole proprietor who is employed by that sole proprietor or the parent, spouse or child of a partner who is employed by the partnership of that partner may state, in writing, that he waives all the benefits and privileges provided by the workers' compensation laws if the commission finds that the waiver is

1 not a prerequisite condition to employment;

2 (6) Employees of an agricultural employer  
3 when harvesting 150 cords of wood or less  
4 each year from farm wood lots, provided that  
5 the employer is covered under an employer's  
6 liability insurance policy as required in  
7 subsection 1-A; or

8 (7) An independent contractor.

9 STATEMENT OF FACT

10 The purpose of this bill is to clarify that man-  
11 datory "workfare" participants are municipal employ-  
12 ees while they perform the public work.

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