

MAINE STATE LEGISLATURE

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L.D. 657

(Filing No. S-362)

STATE OF MAINE
SENATE
113TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " B " to S.P. 238, L.D. 657,
Bill, "AN ACT Amending the Workers' Compensation Laws
Exempting Design Professionals from General Civil
Liability for Injuries on Construction Projects."

Amend the bill by striking out everything after
the enacting clause and inserting in its place the
following:

'Sec. 1. 39 MRSA §2, sub-§1, ¶¶G and H, as
enacted by PL 1979, c. 663, §240, are amended to read:

G. Municipal school committees; and

H. Union school committees; and

Sec. 2. 39 MRSA §2, sub-§1, ¶I is enacted to
read:

I. Design professional.

Sec. 3. 39 MRSA §2, sub-§4-A is enacted to read:

4-A. Design professional. "Design professional"
means:

A. An architect, professional engineer, landscape

COMMITTEE AMENDMENT "B " to S.P. 238, L.D. 657

1 architect, land surveyor, geologist or soil
2 scientist licensed to practice that profession in
3 the State in accordance with Title 32; or

4 B. Any corporation or partnership, professional
5 or general, which employs one or more of any of
6 the professionals described in paragraph A and
7 whose sole purpose is the rendering of
8 professional services practiced by any
9 professional described in paragraph A.

10 **Sec. 4. 39 MRSA §4, as amended by PL 1985, c.**
11 **737, Pt. A, §117, is further amended by adding at the**
12 **end a new paragraph to read:**

13 A design professional acting within the course and
14 scope of providing professional services during the
15 construction, erection or installation of any project
16 or a design professional's employee who is acting
17 within the course and scope of assisting or
18 representing the design professional in the
19 performance of design professional services on or
20 adjacent to the site of the project's construction,
21 erection or installation is immune from liability for
22 any personal injury or death, occurring at or adjacent
23 to such a site, if compensation is paid to the injured
24 person or decedent's representative for the injury or
25 death under this Act, and the design professional has
26 no duty under a written contract to assume
27 responsibility for construction site safety. The
28 immunity provided by this section to any design
29 professional shall not apply to the negligent
30 preparation of design plans and technical
31 specifications. Except as provided by this section,
32 any waiver, oral or written, express or implied, of
33 the design professional's immunity granted by this
34 section shall be void and unenforceable as a matter of
35 law.

36 **Sec. 5. Application. This Act applies to**
37 **causes of action that accrue on or after the effective**
38 **date of this Act.'**

COMMITTEE AMENDMENT "B " to S.P. 238, L.D. 657

1 STATEMENT OF FACT

2 This amendment:

3 1. Clarifies the definition of design
4 professional so that a corporation or partnership
5 employing a design professional will benefit from the
6 immunity provided by the bill only if the
7 corporation's or partnership's sole purpose is the
8 rendering of design professional services;

9 2. Makes it clear that the immunity provided by
10 the bill applies to a design professional, or a design
11 professional's employee, only when that person is
12 acting within the course and scope of providing design
13 professional services;

14 3. Makes it clear that if the injured person or
15 his representative, if the injury resulted in death,
16 has not been paid compensation under the Workers'
17 Compensation Act, then the immunity provided in this
18 amendment does not apply;

19 4. Corrects an error in the use of the word
20 "action" rather than "Act"; and

21 5. Adds an application section.

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Reported by the Majority for the Committee on Judiciary.
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