

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 260

H.P. 175

House of Representatives, February 1, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TUPPER of Orrington.

Cosponsored by Representative PINEAU of Jay, Representative HASTINGS of Fryeburg and Senator COLLINS of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Amend the Workers' Compensation Laws to Encourage Safety
in the Workplace.**

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

24-A MRSA §2365-A is enacted to read:

§2365-A. Safety Pays Program

1. **Program established.** There is established the Safety Pays Program as provided in this section. The superintendent shall adopt rules, subject to Title 5, chapter 379, necessary to implement this section.

2. **Safe workplace defined.** The superintendent shall adopt rules, subject to Title 5, chapter 379, establishing standards that an employer must meet in order to qualify for the Safety Pays Program. These standards must ensure that the employer's workplace provides a safe and healthy working environment for employees that to the greatest extent practicable is free from any correctable physical hazards and minimizes the possibility of workplace accidents. The standards must ensure that physical hazards are minimized and that appropriate safety education or training programs are implemented when necessary. The Bureau of Labor Standards and the Commission of Safety in the Maine Workplace shall assist the superintendent in establishing these standards.

3. **Employer participation; notice to carrier.** Any employer who purchases workers' compensation insurance may elect to participate in the Safety Pays Program. The employer shall notify the employer's insurance carrier within 3 months after a new policy takes effect of the employer's desire to participate in the Safety Pays Program. The bureau shall prepare participation notice forms and provide a form to any employer upon request.

4. **Initial inspection by insurer.** After receiving a notice of participation under subsection 3, the insurance carrier shall provide for an inspection of the employer's workplace at the earliest opportunity and at a mutually agreed upon time. The purpose of the inspection is to determine whether the employer's workplace meets the standards established for a safe workplace under subsection 2.

A. If the insurance carrier determines that the employer's workplace does not meet the standards established under subsection 2, the employer is ineligible to participate in the Safety Pays Program for that policy year. An insurance carrier shall report any serious safety deficiencies discovered during the inspection to the manager of the workplace and shall allow a 4-week period for the company to correct those deficiencies. If the safety deficiencies are not corrected within the 4-week period, the insurance carrier shall report any serious safety deficiencies

2 discovered during the inspection to the federal Occupational
3 Safety and Health Administration and the Bureau of Labor
4 Standards.

5 B. The employer continues to be eligible to participate in
6 the Safety Pays Program for that policy year if:

7 (1) The insurance carrier fails to perform the
8 inspection within the policy year; or

9 (2) The insurance carrier determines that the
10 employer's workplace meets the standards established
11 under subsection 2.

12 5. Second inspection. During the remainder of the policy
13 year, the employer shall permit a 2nd inspection of the
14 employer's workplace to be conducted by the insurer during normal
15 working hours on any date selected by the insurer, with or
16 without prior notice. The purpose of this inspection is to
17 determine whether the employer's workplace continues to meet the
18 standards established under subsection 2.

19 A. The employer is ineligible to participate in the Safety
20 Pays Program for that policy year if:

21 (1) The employer refuses to permit the 2nd inspection
22 to occur; or

23 (2) The insurance carrier determines that the
24 employer's workplace does not meet the standards
25 established in subsection 2. An insurance carrier
26 shall report any serious safety deficiencies discovered
27 during the inspection to the federal Occupational
28 Safety and Health Administration and the Bureau of
29 Labor Standards.

30 B. The employer continues to be eligible to participate in
31 the Safety Pays Program for that policy year if:

32 (1) The insurance carrier fails to perform the 2nd
33 inspection within the policy year; or

34 (2) The insurance carrier determines that the
35 employer's workplace meets the standards established in
36 subsection 2.

37 6. Premium rebate; credit. If an employer remains eligible
38 for participation in the Safety Pays Program at the end of a
39 policy year, the employer's insurance carrier shall pay to the
40 employer an amount equal to 10% of the premium paid to the
41 insurance carrier by that employer for workers' compensation
42 coverage in that premium year. If the employer retains workers'
43 coverage in that premium year.

2 compensation coverage with the same insurance carrier for the
3 ensuing year, the employer may elect to have a credit applied in
4 lieu of a rebate.

6 7. Report. The Bureau of Insurance shall submit a report
7 to the joint standing committee of the Legislature having
8 jurisdiction over banking and insurance matters by January 1,
9 1992. The report must detail the implementation of this section
10 and describe its use by employers and any perceptible effects
11 upon workers' compensation insurance rates and employer safety
12 practices in the State.

14 STATEMENT OF FACT

16 This bill establishes the Safety Pays Program to provide a
17 direct and immediate incentive for employers to maintain safe
18 workplaces and to reward those employers who do so. Under the
19 program, an employer may request that the employer's insurance
20 carrier conduct a safety inspection of the employer's workplace.
21 If the inspection determines that the workplace is safe,
22 according to standards adopted by rule of the Superintendent of
23 Insurance, the insurer has the right to conduct a 2nd surprise
24 inspection at any time during the remainder of the policy year.
25 If that inspection once again finds the workplace to be safe, or
26 if the insurer fails to perform a 2nd inspection, the employer is
27 entitled to receive a 10% rebate of the workers' compensation
28 insurance premium paid during that policy year. If serious
29 safety deficiencies are found during the first inspection, the
30 insurance carrier is required to report those deficiencies to the
31 manager of the workplace, who is allowed a 4-week period in which
32 to correct the deficiencies. If, at the end of the 4-week
33 period, the insurance carrier finds that the deficiencies have
34 not been corrected, the insurance carrier is required to report
35 these deficiencies to the federal Occupational Safety and Health
36 Administration and the Bureau of Labor Standards. The purpose of
37 this bill is to reduce workplace injuries by encouraging greater
38 safety in Maine workplaces and to reward those employers who
succeed in providing a safe workplace.