

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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Legislative Document

No. 850

S.P. 312

Received by the Secretary, February 26, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator ESTY of Cumberland

Cosponsored by Representative PINEAU of Jay, Senator CARPENTER of York and  
President PRAY of Penobscot.

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STATE OF MAINE

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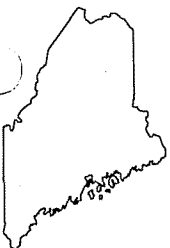
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Permit Predetermination of Independent Contractor Status.**

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Printed on recycled paper



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

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39 MRSA §5 is enacted to read:

4  
§5. Predetermination of independent contractor status

6  
1. Predetermination permitted. A worker, an employer or a  
8 workers' compensation insurance carrier, or any together, may  
apply to the commission for a predetermination of whether the  
10 status of an individual worker, group of workers or a job  
classification associated with the employer is that of an  
12 employee or an independent contractor.

14 A. The predetermination by the commission creates a  
rebuttable presumption that the determination is correct in  
16 any later claim for benefits under this Act.

18 B. Nothing in this section requires a worker, an employer  
or a workers' compensation insurance carrier to request  
20 predetermination.

22 2. Premium adjustment. If it is determined that a  
predetermination does not withstand commission or judicial  
24 scrutiny when raised in a subsequent workers' compensation claim,  
then, depending on the final outcome of that subsequent  
26 proceeding, either the workers' compensation insurance carrier  
shall return excess premium collected or the employer shall remit  
28 premium subsequently due so as to put the parties in the same  
position as if the final outcome under the contested claim was  
30 predetermined correctly.

32 3. Predetermination submission. A party may submit, on  
forms approved by the commission, a request for predetermination  
34 regarding the status of a person or job description as an  
employee or independent contractor.

36 A. The status requested by a party is deemed to have been  
38 approved if the commission does not deny or take other  
appropriate action on the submission within 14 days.

40 B. The chair of the commission is authorized to delegate  
42 the authority to make a predetermination to one other than a  
commissioner, such as the commission's legal counsel, so  
44 long as that person or persons act as the primary decision  
maker.

46 C. The commission is deemed to have made a predetermination  
48 in accordance with a request, for purposes of subsection 1,  
paragraph A, if no action is taken within 14 days of  
50 submission.

