

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1437

S.P. 539

In Senate, April 8, 1991

Reference to the Committee on Labor suggested and ordered printed.

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

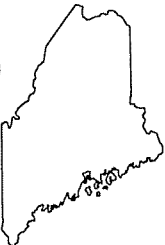
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland
Cosponsored by Representative TAMMARO of Baileyville and Representative TRACY of Rome.

STATE OF MAINE

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

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



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

2
4 24-A MRSA §2365-A is enacted to read:

6 **§2365-A. Safety Pays Program**

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

12 2. Safe workplace defined. The superintendent shall adopt
14 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.

26 3. Employer participation; notice to carrier. Any employer
28 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.

34 4. Initial inspection by insurer. After receiving a notice
36 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.

42 A. If the insurance carrier determines that the employer's
44 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.

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

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

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

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

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

24 (1) The employer refuses to permit the 2nd inspection
25 to occur; or

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

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

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

37 (2) The insurance carrier determines that the
38 employer's workplace meets the standards established in
39 subsection 2.

40 6. Premium rebate; credit. If an employer remains eligible
41 for participation in the Safety Pays Program at the end of a
42 policy year, the employer's insurance carrier shall pay to the
43 employer an amount equal to 10% of the premium paid to the
44 insurance carrier by that employer for workers' compensation
45 coverage in that premium year. If the employer retains workers'
46 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.

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

12 13 14 STATEMENT OF FACT

15
16
17 This bill establishes the Safety Pays Program to provide a
18 direct and immediate incentive for employers to maintain safe
19 workplaces and to reward those employers who do so. Under the
20 program, an employer may request that the employer's insurance
21 carrier conduct a safety inspection of the employer's workplace.
22 If the inspection determines that the workplace is safe,
23 according to standards adopted by rule of the Superintendent of
24 Insurance, the insurer has the right to conduct a 2nd surprise
25 inspection at any time during the remainder of the policy year.
26 If that inspection once again finds the workplace to be safe, or
27 if the insurer fails to perform a 2nd inspection, the employer is
28 entitled to receive a 10% rebate of the workers' compensation
29 insurance premium paid during that policy year. If serious
30 safety deficiencies are found during the first inspection, the
31 insurance carrier is required to report those deficiencies to the
32 manager of the workplace, who is allowed a 4-week period in which
33 to correct the deficiencies. If, at the end of the 4-week
34 period, the insurance carrier finds that the deficiencies have
35 not been corrected, the insurance carrier is required to report
36 these deficiencies to the federal Occupational Safety and Health
37 Administration and the Bureau of Labor Standards. The purpose of
38 this bill is to reduce workplace injuries by encouraging greater
39 safety in Maine workplaces and to reward those employers who
40 succeed in providing a safe workplace.