

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1603

H.P. 1104

House of Representatives, April 22, 1991

Reference to the Committee on Banking and Insurance suggested and ordered printed.

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

EDWIN H. PERT, Clerk

Presented by Representative AIKMAN of Poland.

Cosponsored by Senator THERIAULT of Aroostook, Senator BRAUN of Knox and Senator CARPENTER of York.

STATE OF MAINE

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

An Act Relating to Workers' Compensation Insurance for Leased
Employees.

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

24-A MRSA c. 77 is enacted to read:

CHAPTER 77

WORKERS' COMPENSATION INSURANCE FOR LEASED EMPLOYEES

§6351. Workers' compensation insurance; lessors of employees

1. Registration required. A corporation, partnership, sole proprietorship or other business entity that provides staff, personnel or employees to be employed in this State to other businesses pursuant to a lease arrangement or agreement shall, before becoming eligible to be issued a policy of workers' compensation insurance, register with the superintendent. The registration must:

A. Identify the name of the lessor;

B. Identify the address of the principal place of business of the lessor and the address of each office it maintains within this State;

C. Include the lessor's taxpayer or employer identification number;

D. Include a list by jurisdiction of each name under which the lessor has operated in the preceding 5 years including any alternative names and names of predecessors and, if known, successor business entities;

E. Include a list of each person or entity that owns a 5% or greater interest in the employee leasing business at the time of application and a list of each person who formerly owned a 5% or greater interest in the employee leasing company or its predecessors, successors or alter egos in the preceding 5 years; and

F. Include a list of each cancellation or nonrenewal or workers' compensation insurance that has been issued to the lessor or any predecessor in the preceding 5 years. The list must include the policy or certificate number, name of insurer or other provider of coverage, date of cancellation and reason for cancellation. If coverage has not been cancelled or nonrenewed, the registration must include a sworn affidavit signed by the chief executive officer of the lessor attesting to that fact.

2. Ineligibility to register. Any lessor of employees whose workers' compensation insurance has been terminated within the past 5 years in any jurisdiction due to a determination that

2 an employee leasing arrangement was being utilized to avoid
3 premium otherwise payable by lessees is ineligible to register
4 with the superintendent or to remain registered, if previously
5 registered.

6 A. A person filing registration statements pursuant to this
7 section shall notify the superintendent of any changes in
8 any information provided pursuant to this section.

10 B. The superintendent shall maintain a list of those
11 lessors of employees who are satisfactorily registered with
12 the superintendent.

14 C. The superintendent may prescribe such forms as are
15 necessary to promote the efficient administration of this
16 section.

18 D. Any lessor of employees that was doing business in this
19 State prior to enactment of this section shall register with
20 the superintendent within 30 days of the effective date of
21 this section.

22 **§6352. Advertising prohibition**

24 An organization registered under this chapter may not
25 directly or indirectly reference that registration in any
26 advertisements, marketing material or publications.

28 **§6353. Criminal penalties**

30 Any corporation, partnership, sole proprietorship or other
31 form of business entity and any officer, director, general
32 partner, agent, representative or employee of any of those types
33 of business entities who knowingly utilizes or participates in
34 any employee leasing agreement, arrangement or mechanism for the
35 purpose of depriving one or more insurers of premium otherwise
36 properly payable is subject to a fine not to exceed \$1,000 in the
37 case of a natural person and \$5,000 in the case of an
38 organization or imprisonment for not over 6 months, or to both.

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41
42 **STATEMENT OF FACT**

44 This bill responds to issues raised when employee leasing
45 firms seek to procure workers' compensation insurance coverage
46 upon those persons who work for clients of the leasing company.
47 The bill is part of a model regulatory program currently proposed
48 for adoption by the National Association of Insurance
49 Commissioners.

50
51 The bill requires employee leasing companies to register
52 with the Superintendent of Insurance as one condition of

eligibility to be issued a workers' compensation insurance policy
2 with respect to leased employees.