

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 887

H.P. 664

House of Representatives, March 21, 1995

**An Act to Encourage Job Creation by Exempting Small Businesses from
the Current Workers' Compensation System.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative WATERHOUSE of Bridgton.
Cosponsored by Representatives: AULT of Wayne, BIRNEY of Paris, DEXTER of Kingfield,
DONNELLY of Presque Isle, HARTNETT of Freeport, JOY of Crystal, JOYNER of Hollis,
LANE of Enfield, LOOK of Jonesboro, LUMBRA of Bangor, RICE of South Bristol,
SAVAGE of Union, SIMONEAU of Thomaston, VIGUE of Winslow, WINSOR of Norway.

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

2
3 **Sec. 1. 39-A MRSA §103, sub-§§2 and 3**, as enacted by PL 1991,
4 c. 885, Pt. A, §8 and affected by §§9 to 11, are amended to read:

6 **2. Fellow employee negligent.** That the injury was caused by
7 the negligence of a fellow employee; ~~or~~

8
9 **3. Employee assumed risk.** That the employee has assumed the
10 risk of the injury; ~~or~~

12 **Sec. 2. 39-A MRSA §103, sub-§4** is enacted to read:

14 **4. Five or fewer employees.** That the employer has 5 or
15 fewer employees and that those employees were covered by a
16 disability insurance policy and coverage for health care in an
17 amount not less than \$100,000.

18 **Sec. 3. 39-A MRSA §401, sub-§1, ¶¶B and C**, as enacted by PL
19 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, are amended to
20 read:

22
23 **B.** Employers of employees engaged in agriculture or
24 aquaculture as seasonal or casual laborers, if the employer
25 maintains coverage by an employer's liability insurance
26 policy with total limits of not less than \$25,000 and
27 medical payment coverage of not less than \$1,000.

28
29 (1) As used in this subsection, "casual" means
30 occasional or incidental. "Seasonal" refers to
31 laborers engaged in agricultural or aquacultural
32 employment beginning at or after the commencement of
33 the planting or seeding season and ending at or before
34 the completion of the harvest season; ~~and~~

36 **C.** Employers of 6 or fewer agricultural or aquacultural
37 laborers, if the employer maintains an employer's liability
38 insurance policy with total limits of not less than \$100,000
39 multiplied by the number of agricultural or aquacultural
40 laborers employed by that employer and medical payment
41 coverage of not less than \$1,000.

42
43 (1) In computing the number of agricultural or
44 aquacultural laborers under this paragraph, immediate
45 family members of unincorporated employers, immediate
46 family members of bona fide owners of at least 20% of
47 the outstanding voting stock of an incorporated
48 agricultural employer and seasonal and casual workers
49 are not included. For the purposes of this
50 subparagraph, "immediate family members" means
parents, spouse, brothers, sisters and children.

2 (2) This exemption does not apply if the employer has
4 employed more than 6 agricultural or aquacultural
6 laborers in regular and concurrent manner, as computed
under subparagraph 1, at any time during the 52 weeks
immediately preceding the injury; and

8 **Sec. 4. 39-A MRSA §401, sub-§1, ¶D** is enacted to read:

10 D. Employers of 5 or fewer employees, if the employer
12 provides disability insurance coverage and coverage for
health care in an amount not less than \$100,000 to each of
the employees.

14
16 **STATEMENT OF FACT**

18 This bill exempts employers with 5 or fewer employees from
the requirement to obtain workers' compensation insurance. In
20 order to be exempt and to obtain a defense against claims by
insured employees, the employer would have to provide disability
and health insurance coverage to all employees.