MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1141

S.P. 418

In Senate, April 4, 1995

An Act Concerning Employee Leasing Companies.

Submitted by the Department of Labor pursuant to Joint Rule 24.
Reference to the Committee on Labor suggested and ordered printed.

MAY M. ROSS

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Secretary of the Senate

Presented by Senator BEGLEY of Lincoln.
Cosponsored by Senator: RUHLIN of Penobscot, Representative: LINDAHL of Northport.

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

Sec. 1. 26 MRSA §1221-A, sub-§1, as amended by PL 1993, c. 264, §1, is further amended to read:

1. Joint and several liability. A client company is jointly and severally liable for unpaid contributions, interest and penalties due under this chapter from the employee leasing company for wages paid to employees leased to the client company. ~~The employee leasing company must comply with subsection 5 in a timely manner in order to relieve a client company from such liability.~~

Sec. 2. 26 MRSA §1221-A, sub-§5, ¶A, as amended by PL 1993, c. 264, §2, is further amended to read:

A. ~~To relieve client companies from the joint and several liability imposed under subsection 1,~~ an An employee leasing company ~~must~~ may post and maintain a surety bond issued by a corporate surety authorized to do business in the State in the amount of $100,000 to ensure prompt payment of the contributions, interest and penalties for which the employee leasing company is liable under this section. After 3 consecutive years throughout which the employee leasing company has paid in a timely manner all contributions due, the bond must be reduced to $35,000 and remain at this amount as long as the employee leasing company continues to report and pay in a timely manner all contributions due. If an employee leasing company has paid in a timely manner all contributions due for 3 consecutive years upon the effective date of this subsection, its initial bond must be $35,000 and remain at this amount as long as the employee leasing company continues to report and pay in a timely manner all contributions due.

Sec. 3. 26 MRSA §1221-A, sub-§8, as enacted by PL 1991, c. 468, §3, is repealed and the following enacted in its place:

8. Penalty. A person or an employee leasing company that violates this chapter is subject to a forfeiture of $100 per day for each violation. A corporation, partnership, sole proprietorship or other form of business entity and an officer, director, general partner, agent, representative or employee of any of those types of business entities that knowingly uses or participates in an employee leasing agreement, arrangement or mechanism for the purpose of depriving one or more insurers of premiums or avoiding the calculation of the proper contribution rate for purposes of unemployment contributions commits a Class E crime.

2   **Sec. 4. 26 MRSA §1221-A, sub-§9** is enacted to read:

4   **9. Rebuttable presumption.** When an employee leasing
company leases employees to only one client company or to only
6   client companies and the leasing company and the client company
or companies are owned or controlled by the same parties or
8   interests, directly or indirectly, by legally enforceable means
or otherwise, there is a rebuttable presumption that the client
10   company or companies entered into an employee leasing arrangement
to avoid the calculation of the proper contribution rate for
12   payment of unemployment contributions.

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STATEMENT OF FACT
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    The purpose of the bill is to protect the unemployment
18   insurance trust fund from losses in revenue when the
contributions unpaid by a leasing company are in amounts in
20   excess of the amount of the bond posted.

22   This bill deletes a reference to penalties under the Maine
Revised Statutes, Title 32, section 14058, subsections 1 to 3 and
24   provides for the penalties under Title 26.