

MAINE STATE LEGISLATURE

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L.D. 30

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JUDICIARY

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 32, L.D. 30, Bill, "An Act to Exclude Intentional Tort Claims from the Application of the Maine Workers' Compensation Act of 1992"

Amend the bill by striking out the title and substituting the following:

'An Act to Exclude Claims for Intentional Criminal Acts from the Application of the Workers' Compensation Act of 1992'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 39-A MRSA §104, as amended by PL 1995, c. 297, §1, is further amended by adding at the end a new paragraph to read:

This section does not bar a separate tort action against the employer for injury or death caused by the employer's intentional acts that are punishable under Title 17-A, chapter 9 or Title 17-A, section 253.'

Further amend the bill by inserting at the end before the summary the following:

'FISCAL NOTE

This bill will expose the State to lawsuits which are not permitted under current law and which are not currently covered

COMMITTEE AMENDMENT "A" to S.P. 32, L.D. 30

2 under the State's liability insurance coverage. While few
lawsuits of this type are expected to occur, the costs that would
4 result could be significant and will increase the cost of
liability insurance for all state departments and agencies. The
6 amount of any General Fund, Highway Fund or other fund costs can
not be determined at this time.

8 This bill may increase the number of civil suits filed in
the court system. The additional workload and administrative
10 costs associated with the minimal number of new cases filed can
be absorbed within the budgeted resources of the Judicial
12 Department. The collection of additional filing fees may also
increase General Fund revenue by minor amounts.'

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SUMMARY

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This amendment replaces the bill. It authorizes a civil
20 suit against an employer outside of the Workers' Compensation Act
of 1992 in limited circumstances. The Workers' Compensation Act
22 of 1992 includes an "exclusivity clause" that provides that the
Act is the exclusive remedy for almost all workplace injuries and
24 deaths. This amendment adds an exception to the exclusivity
clause. If the employer engages in an intentional act that is
punishable under the Maine Criminal Code, the Maine Revised
26 Statutes, Title 17-A, chapter 9, dealing with offenses against
the person or section 253, dealing with gross sexual assault and
28 the intentional act causes an injury or death, the Workers'
Compensation Act is not the exclusive remedy, and a separate suit
30 for damages against the employer is not prohibited.