

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 30

S.P. 32

In Senate, January 9, 1997

**An Act to Exclude Intentional Tort Claims from the Application of the
Maine Workers' Compensation Act of 1992.**

Reference to the Committee on Judiciary 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 LAFOUNTAIN of York.
Cosponsored by Representative DAVIDSON of Brunswick and
Senator TREAT of Kennebec, Representatives: LEMAIRE of Lewiston, McALEVEY of
Waterboro, WATSON of Farmingdale.

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

4 **Sec. 1. 39-A MRSA §104, first ¶**, as amended by PL 1995, c. 297,
§1, is further amended to read:

6 An employer who has secured the payment of compensation in
conformity with sections 401 to 407 is exempt from civil actions,
8 either at common law or under sections 901 to 908; Title 14,
sections 8101 to 8118; and Title 18-A, section 2-804, involving
10 personal injuries sustained by an employee arising out of and in
the course of employment, or for death resulting from those
12 injuries. An employer that uses a private employment agency for
temporary help services is entitled to the same immunity from
14 civil actions by employees of the temporary help service as is
granted with respect to the employer's own employees as long as
16 the temporary help service has secured the payment of
compensation in conformity with sections 401 to 407. "Temporary
18 help services" means a service where an agency assigns its own
employees to a 3rd party to work under the direction and control
20 of the 3rd party to support or supplement the 3rd party's work
force in work situations such as employee absences, temporary
22 skill shortages, seasonal work load conditions and special
assignments and projects. These exemptions from liability apply
24 to all employees, supervisors, officers and directors of the
employer for any personal injuries arising out of and in the
26 course of employment, or for death resulting from those
injuries. These exemptions also apply to occupational diseases
28 sustained by an employee or for death resulting from those
diseases. These exemptions do not apply to an illegally employed
30 minor as described in section 408, subsection 2 and do not bar an
employee or the employee's personal representative from pursuing
32 an action for injuries or death arising out of an intentional act
against that employee.

34
36 **SUMMARY**

38 This bill allows an employee to pursue an action outside of
the Maine Workers' Compensation Act of 1992 for injuries arising
40 out of an intentional act against that employee. The bill is
intended to redress the decision in Li v. C.N. Brown Company, 645
42 A.2d 606 (Me. 1994), where an employee's death resulted from her
intentional exposure to a robbery by her employer.