

# 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. 1130

---

H.P. 825

House of Representatives, February 20, 1997

---

**An Act Restoring the Right to Sue to Workers Injured Due to Negligence.**

---

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative RINES of Wiscasset.

Cosponsored by Representatives: BERRY of Livermore, HATCH of Skowhegan, SAMSON of Jay, Senator: KILKELLY of Lincoln.

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

2  
3       **Sec. 1. 39-A MRSA §104, first ¶**, as amended by PL 1995, c. 297,  
4       §1, is further amended to read:

6       An employer who has secured the payment of compensation in  
7 conformity with sections 401 to 407 is exempt from civil actions,  
8 either at common law or under sections 901 to 908; Title 14,  
9 sections 8101 to 8118; and Title 18-A, section 2-804, involving  
10 personal injuries sustained by an employee arising out of and in  
11 the course of employment, or for death resulting from those  
12 injuries. An employer that uses a private employment agency for  
13 temporary help services is entitled to the same immunity from  
14 civil actions by employees of the temporary help service as is  
15 granted with respect to the employer's own employees as long as  
16 the temporary help service has secured the payment of  
17 compensation in conformity with sections 401 to 407. "Temporary  
18 help services" means a service where an agency assigns its own  
19 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  
21 force in work situations such as employee absences, temporary  
22 skill shortages, seasonal work load conditions and special  
23 assignments and projects. These exemptions from liability apply  
24 to all employees, supervisors, officers and directors of the  
25 employer for any personal injuries arising out of and in the  
26 course of employment, or for death resulting from those  
27 injuries. These exemptions also apply to occupational diseases  
28 sustained by an employee or for death resulting from those  
29 diseases. These exemptions do not apply to an illegally employed  
30 minor as described in section 408, subsection 2 or in cases when  
31 the employee's injury is due to the negligence, gross negligence  
32 or illegal acts of an employer as described in section 408,  
33 subsection 3 and the disability resulting from the negligence,  
34 gross negligence or illegal acts exceeds the durational limits  
35 for disability benefits provided in section 213.

36  
37       **Sec. 2. 39-A MRSA §408, sub-§3** is enacted to read:

38  
39       **3. Injuries due to negligence, gross negligence or illegal**  
40 **acts of the employer.** A worker injured due to the negligence,  
41 gross negligence or illegal acts of the worker's employer or  
42 coworker is not considered to have waived the employee's right of  
43 action at common law under section 104 to the extent the duration  
44 of disability resulting from the injury exceeds the durational  
45 limits of section 213. Any right of action available under this  
46 subsection is in addition to any right to compensation benefits  
47 the injured worker has under this Act and may not be waived or  
48 modified by the employee or employer.

## SUMMARY

2  
4 This bill restores to an injured employee the right to sue  
6 the employer for damages if the injury is due to the negligence,  
8 gross negligence or illegal acts of the employer and the  
10 disability resulting from the injury exceeds the duration of  
benefits provided under the Maine Revised Statutes, Title 39-A,  
section 213. Any recovery is in addition to that available to  
the employee under the Workers' Compensation Act. Under this  
bill, the employee's right to sue may not be waived or modified.