

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1335

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S.P. 414

In Senate, March 4, 1997

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### An Act Requiring Disclosures by Payroll Processing Companies.

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Reference to the Committee on Business and Economic Development 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 HARRIMAN of Cumberland.  
Cosponsored by Senator BUTLAND of Cumberland, Representative: BRUNO of Raymond.

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

4 Sec. 1. 10 MRSA c. 222 is enacted to read:

6 CHAPTER 222

8 PAYROLL PROCESSING

10 §1495. Payroll processing company disclosures

12 1. Definitions. As used in this section, unless the  
14 context otherwise indicates, the following terms have the  
16 following meanings.

18 A. "Payroll processing company" means a business entity  
20 that issues payroll checks, makes tax payments and files  
22 quarterly tax reports on behalf of another employer.

24 2. Disclosures required. A payroll processing company  
26 shall make the following disclosures to any employer that seeks  
28 to use the company to process its payroll:

30 A. A statement indicating whether the payroll processing  
32 company is bonded for fraudulent acts of its owners,  
34 employees or agents;

36 B. Audited financial statements for the payroll processing  
38 company for the immediately preceding 3 years or for the  
40 life of the company if it has been in existence for fewer  
42 than 3 years;

44 C. The net worth of the payroll processing company as  
46 determined at the end of the immediately preceding fiscal  
48 year;

D. Whether the payroll processing company performs all of  
the functions, including tax filing, associated with payroll  
processing or whether the company contracts out some of  
those functions; and

E. The length of time in which the payroll processing  
company has been engaged in payroll processing.

3. Exemption. A payroll processing company with a net  
worth in excess of \$500,000 is exempt from the disclosure  
requirements of this section.

2 **§1495-A. Penalties**

4 **1. Violation.** Any violation of this chapter constitutes  
prima facie evidence of a violation of the Unfair Trade Practices  
Act, Title 5, chapter 10.

6  
8 **2. Civil penalty.** Each violation of this chapter  
constitutes a civil violation for which a forfeiture of not less  
10 than \$100 nor more than \$1,000 may be adjudged. An action may  
not be brought for a civil violation under this subsection if  
12 that action is more than 2 years after the date of the occurrence  
of the violation. An owner or operator of a payroll processing  
14 company may not be held liable for a civil violation under this  
subsection if that person shows by a preponderance of the  
16 evidence that the violation was unintentional and a bona fide  
error.

18 **SUMMARY**

20  
22 This bill requires payroll processing companies with a net  
worth of \$500,000 or less to make certain disclosures to  
24 employers who seek to use the company to process payrolls. These  
disclosures include a statement indicating whether the company is  
26 bonded for fraudulent acts, audited financial statements, the net  
worth of the company, the functions that may be subcontracted to  
others bonded and how long the company has been engaged in  
28 payroll processing. The bill provides that a violation of the  
Maine Revised Statutes, Title 10, chapter 222 is a violation of  
30 the Unfair Trade Practices Act and also constitutes a civil  
violation.