

MAINE STATE LEGISLATURE

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LABOR

Reported by: *Senator Treat*

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to S.P. 475, L.D. 1477, Bill, "An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry"

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 §102, sub-§11, ¶A, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended by amending subparagraphs (4) and (5) to read:

(4) Any Except for persons engaged in harvesting of forest products, any person who, in a written statement to the board, waives all the benefits and privileges provided by the workers' compensation laws, provided that the board has found that person to be a bona fide owner of at least 20% of the outstanding voting stock of the corporation by which that person is employed or a shareholder of the professional corporation by which that person is employed and that this waiver was not a prerequisite condition to employment. For the purposes of this subparagraph, the term "professional corporation" has the same meaning as found in Title 13, section 703, subsection 1.

Any person may revoke or rescind that person's waiver upon 30 days' written notice to the board and that person's employer. The parent, spouse or child of a person who has made a waiver under the previous sentence may state, in writing, that the parent, spouse

H. of S.

COMMITTEE AMENDMENT "A" to S.P. 475, L.D. 1477

2 or child waives all the benefits and privileges
provided by the workers' compensation laws if the board
4 finds that the waiver is not a prerequisite condition
to employment and if the parent, spouse or child is
6 employed by the same corporation that employs the
person who has made the first waiver;

8 (5) The Except for persons engaged in harvesting of
forest products, the parent, spouse or child of a sole
10 proprietor who is employed by that sole proprietor or
the parent, spouse or child of a partner who is
12 employed by the partnership of that partner may state,
in writing, that the parent, spouse or child waives all
14 the benefits and privileges provided by the workers'
compensation laws if the board finds that the waiver is
16 not a prerequisite condition to employment;

18 **Sec. 2. 39-A MRSA §102, sub-§11, ¶B-1** is enacted to read:

20 B-1. "Employee" includes any person engaged in harvesting
forest products but does not include a person who contracts
22 for wood harvesting directly with the landowner and performs
all of the wood harvesting alone. A person considered an
24 employee under this paragraph shall obtain personal coverage
by insuring and keeping insured the payment of compensation
26 and other benefits under a workers' compensation insurance
policy. The insurance policy must clearly indicate the
28 intention of the parties to provide coverage for the person
required to be personally covered. The insurance company
30 shall file with the board notice, in such form as the board
approves, of the issuance of any workers' compensation
32 policy to a person obtaining personal coverage. That
insurance may not be cancelled within the time limited in
34 that policy for its expiration until at least 30 days after
mailing a notice of the cancellation of that insurance to
36 the board and the person obtaining personal coverage. In
the event that the person obtaining personal coverage has
38 obtained a workers' compensation insurance policy from
another insurance company, and that insurance becomes
40 effective prior to the expiration of the 30 days,
cancellation is effective as of the effective date of the
42 other insurance. The Superintendent of Insurance is
authorized to review for approval, at the superintendent's
44 discretion, an appropriate classification for this class of
persons and a rate in accordance with established standards.

46 **Sec. 3. 39-A MRSA §102, sub-§12-A** is enacted to read:

48 12-A. **Harvesting forest products.** "Harvesting forest
50 products" means to sever and remove standing trees from a forest

R. of S.

COMMITTEE AMENDMENT "A" to S.P. 475, L.D. 1477

as a raw material for commercial purposes. "Forest products" has the same meaning as in Title 12, section 8881, subsection 3.

Sec. 4. 39-A MRSA §401, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended by amending the first paragraph to read:

1. Private employers and wood harvesters. Every private employer is subject to this Act and shall secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to all employees, subject to the provisions of this section. A person engaged in harvesting forest products is subject to this Act and must secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to that person individually unless that person contracts for wood harvesting directly with the landowner and performs all of the wood harvesting alone.

Sec. 5. 39-A MRSA §401, sub-§3, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

3. Failure to conform. The failure of any private employer or of any person engaged in harvesting forest products not exempt under subsection 1 or of any governmental body, as defined in subsection 2, to procure insurance coverage for the payment of compensation pursuant to sections 402 to 407 constitutes failure to secure payment of compensation provided for by this Act within the meaning of section 324, subsection 3, and subjects the employer to the penalties prescribed by that section. For purposes of this subsection, the term "insurance coverage" includes authorization by the Superintendent of Insurance to self-insure.'

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

FISCAL NOTE

The inclusion of certain employers in the workers' compensation system will require a minor redistribution of the Workers' Compensation Board's \$6,000,000 assessment on insurers and self-insurers. In addition, the board will incur some minor additional costs to administer the workers' compensation process for these newly included employers. These costs can be absorbed within the board's existing budgeted resources.

The costs to the State associated with the redistribution of the assessment are not expected to affect the amounts budgeted by state departments and agencies for workers' compensation.'

R. G. S.

COMMITTEE AMENDMENT "A" to S.P. 475, L.D. 1477

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SUMMARY

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6 This amendment replaces the bill. The amendment requires
8 all persons engaged in harvesting wood products to carry workers'
10 compensation insurance for themselves in addition to their
12 employees. The only exception is for an individual who contracts
directly with the landowner to harvest the wood and performs all
of the wood harvesting alone. The amendment also defines
harvesting forest products as to sever and remove standing trees
from a forest.

14

The amendment also adds a fiscal note to the bill.