

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 670

S.P. 248

In Senate, January 26, 1999

An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry.

Reference to the Committee on Labor 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 NUTTING of Androscoggin.
Cosponsored by Representative HATCH of Skowhegan and
Senators: MICHAUD of Penobscot, MILLS of Somerset, Representatives: BERRY of
Livermore, SAMSON of Jay.

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

4 **Sec. 1. 39-A MRSA §102, sub-§11, ¶A**, as amended by PL 1997, c.
600, §§3 and 4, is further amended by amending subparagraphs (4)
and (5) to read:

6
8 (4) Any Except for persons engaged in harvesting of
10 forest products, any person who, in a written statement
12 to the board, waives all the benefits and privileges
14 provided by the workers' compensation laws, provided
16 that the board has found that person to be a bona fide
18 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.

20
22 Any person may revoke or rescind that person's waiver
upon 30 days' written notice to the board and that
24 person's employer. The parent, spouse or child of a
person who has made a waiver under the previous
26 sentence may state, in writing, that the parent, spouse
or child waives all the benefits and privileges
28 provided by the workers' compensation laws if the board
finds that the waiver is not a prerequisite condition
to employment and if the parent, spouse or child is
30 employed by the same corporation that employs the
person who has made the first waiver;

32
34 (5) The Except for persons engaged in harvesting of
forest products, the parent, spouse or child of a sole
36 proprietor who is employed by that sole proprietor or
the parent, spouse or child of a partner who is
38 employed by the partnership of that partner may state,
in writing, that the parent, spouse or child waives all
the benefits and privileges provided by the workers'
40 compensation laws if the board finds that the waiver is
not a prerequisite condition to employment;

42
44 **Sec. 2. 39-A MRSA §102, sub-§11, ¶B-1** is enacted to read:

46 B-1. "Employee" includes any person engaged in harvesting
forest products but does not include a person who contracts
48 for wood harvesting directly with the landowner and performs
all of the wood harvesting alone. A person considered an
50 employee under this paragraph shall obtain personal coverage
by insuring and keeping insured the payment of compensation

2 and other benefits under a workers' compensation insurance
4 policy. The insurance policy must clearly indicate the
6 intention of the parties to provide coverage for the person
8 required to be personally covered. The insurance company
10 shall file with the board notice, in such form as the board
12 approves, of the issuance of any workers' compensation
14 policy to a person obtaining personal coverage. That
16 insurance may not be cancelled within the time limited in
18 that policy for its expiration until at least 30 days after
20 mailing a notice of the cancellation of that insurance to
 the board and the person obtaining personal coverage. In
 the event that the person obtaining personal coverage has
 obtained a workers' compensation insurance policy from
 another insurance company, and that insurance becomes
 effective prior to the expiration of the 30 days,
 cancellation is effective as of the effective date of the
 other insurance. The Superintendent of Insurance may review
 for approval, at the superintendent's discretion, an
 appropriate classification for this class of persons and a
 rate in accordance with established standards.

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

24 **12-A. Harvesting forest products.** "Harvesting forest
26 products" means to sever and remove standing trees from a forest
28 as a raw material for commercial purposes. "Forest products" has
 the same meaning as in Title 12, section 8881, subsection 3.

30 **Sec. 4. 39-A MRS §401, sub-§1, as amended by PL 1997, c. 359,**
 §1, is further amended by amending the first paragraph to read:

32 **1. Private employers and wood harvesters.** Every private
34 employer is subject to this Act and shall secure the payment of
36 compensation in conformity with this section and sections 402 to
38 407 with respect to all employees, subject to the provisions of
40 this section. A person engaged in harvesting forest products is
42 subject to this Act and shall secure the payment of compensation
44 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 or is assisted in performing all of
 the wood harvesting functions by one or more of the following
 persons only whose relationship with the person is that of
 parent, sibling, child or sibling's child.

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

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

12

14

SUMMARY

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17 This bill requires all persons engaged in harvesting wood
18 products to carry workers' compensation insurance for themselves
19 in addition to their employees. The only exception is for an
20 individual who contracts directly with the landowner to harvest
21 the wood and performs all of the wood harvesting alone or is
22 assisted in performing all wood harvesting functions by certain
23 closely related family members. The bill also defines harvesting
24 forest products as severing and removing standing trees from a
 forest.