

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1350

H.P. 952

House of Representatives, February 18, 1999

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

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 HATCH of Skowhegan.
Cosponsored by Senator CATHCART of Penobscot and
Representatives: BRYANT of Dixfield, DUPLESSIE of Westbrook, FRECHETTE of
Biddeford, GOODWIN of Pembroke, MATTHEWS of Winslow, SAMSON of Jay, TRACY
of Rome.

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

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

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SUMMARY

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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.