

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 975

H.P. 756

House of Representatives, February 20, 2001

**An Act to Establish an Exemption to the Exclusivity Provisions of the
Maine Workers' Compensation Act of 1992.**

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative GOOLEY of Farmington. (By Request)
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: DUNCAN of Presque Isle, MATTHEWS of Winslow, RICHARD of
Madison, TRACY of Rome, Senators: TREAT of Kennebec, WOODCOCK of Franklin.

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

4 **Sec. 1. 39-A MRSA §104, first ¶,** as amended by PL 1995, c. 297,
5 §1, is further amended to read:

6 An Except as provided in section 104-A, an employer who has
7 secured the payment of compensation in conformity with sections
8 401 to 407 is exempt from civil actions, either at common law or
9 under sections 901 to 908; Title 14, sections 8101 to 8118; and
10 Title 18-A, section 2-804, involving personal injuries sustained
11 by an employee arising out of and in the course of employment, or
12 for death resulting from those injuries. An employer that uses a
13 private employment agency for temporary help services is entitled
14 to the same immunity from civil actions by employees of the
15 temporary help service as is granted with respect to the
16 employer's own employees as long as the temporary help service
17 has secured the payment of compensation in conformity with
18 sections 401 to 407. "Temporary help services" means a service
19 where an agency assigns its own employees to a 3rd party to work
20 under the direction and control of the 3rd party to support or
21 supplement the 3rd party's work force in work situations such as
22 employee absences, temporary skill shortages, seasonal work load
23 conditions and special assignments and projects. These
24 exemptions from liability apply to all employees, supervisors,
25 officers and directors of the employer for any personal injuries
26 arising out of and in the course of employment, or for death
27 resulting from those injuries. These exemptions also apply to
28 occupational diseases sustained by an employee or for death
29 resulting from those diseases. These exemptions do not apply to
30 an illegally employed minor as described in section 408,
31 subsection 2.

32 **Sec. 2. 39-A MRSA §104-A** is enacted to read:

33 **§104-A. Exemption for lineworkers**

34 Notwithstanding section 104, the estate of an employee may
35 sue the employee's employer for wrongful death if:

36 1. Lineworker. The employee was employed as a lineworker;

37 2. Emergency situation; widespread outages. The employee
38 sustained personal injuries arising out of and in the course of
39 employment during an emergency situation while the employee was
40 working to restore power during widespread storm outages; and

41 3. Work in excess of 24 consecutive hours. The employee's
42 injuries were sustained after working in excess of 24 consecutive
43 hours.

