

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1435

H.P. 1054

House of Representatives, March 25, 2003

An Act To Clarify Immunity and Workers' Compensation for Search and Rescue Volunteers

Submitted by the Department of Defense, Veterans and Emergency Management pursuant to Joint Rule 204.

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUPLESSIE of Westbrook.
Cosponsored by Senator BRYANT of Oxford and
Representatives: CLARK of Millinocket, DUNLAP of Old Town, DUPREY of Medway,
TRAHAN of Waldoboro, WATSON of Bath, WHEELER of Kittery, WOTTON of Littleton.

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

4 **Sec. 1. 14 MRSA §8102, sub-§1**, as amended by PL 1995, c. 196,
Pt. D, §1, is further amended to read:

6 **1. Employee.** "Employee" means a person acting on behalf
7 of a governmental entity in any official capacity, whether
8 temporarily or permanently, and whether with or without
9 compensation from local, state or federal funds, including
10 elected or appointed officials; volunteer firefighters as defined
11 in Title 30-A, section 3151; emergency medical service personnel;
12 members and staff of the Consumer Advisory Board pursuant to
13 Title 34-B, section 1216; members of the Maine National Guard but
14 only while performing state active service pursuant to Title
15 37-B; and sheriffs' deputies as defined in Title 30-A, section
16 381 when they are serving orders pursuant to section 3135; and
17 persons while performing a search and rescue activity when
18 requested by a state, county or local governmental entity, but
19 the term "employee" does not mean a person or other legal entity
20 acting in the capacity of an independent contractor under
21 contract to the governmental entity.

22 **Sec. 2. 39-A MRSA §102, sub-§11, ¶A**, as amended by PL 2001, c.
23 710, §18 and affected by §19, is further amended by amending
24 subparagraph (2) to read:

25 (2) Firefighters, including volunteer firefighters who
26 are active members of a volunteer fire association as
27 defined in Title 30-A, section 3151; volunteer
28 emergency medical services persons as defined in Title
29 32, section 83, subsection 12; a person, whether paid
30 or unpaid while performing a search and rescue activity
31 when requested by a state, county or local governmental
32 entity; and police officers are employees within the
33 meaning of this Act. In computing the average weekly
34 wage of an injured volunteer firefighter or volunteer
35 emergency services person, the average weekly wage must
36 be taken to be the earning capacity of the injured
37 employee in the occupation in which the employee is
38 regularly engaged. Employers who hire workers within
39 this State to work outside the State may agree with
40 these workers that the remedies under this Act are
41 exclusive as regards injuries received outside this
42 State arising out of and in the course of that
43 employment; and all contracts of hiring in this State,
44 unless otherwise specified, are presumed to include
45 such an agreement. Any reference to an employee who has
46 been injured must, when the employee is dead, include
47 the employee's legal representatives, dependents and
48 other persons to whom compensation may be payable;
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SUMMARY

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6 This bill includes under the definition of state "employee"
8 for Workers' Compensation and immunity purposes a person, whether
paid or unpaid, who performs a search and rescue activity upon
request of a state, county or local government.