

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 1847

H.P. 1287

House of Representatives, January 3, 2006

### **An Act To Clarify the Unemployment Laws Relating to Subcontractors**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MILLS of Farmington.  
Cosponsored by Representative: MOODY of Manchester, Senators: BARTLETT of Cumberland, BROMLEY of Cumberland, President EDMONDS of Cumberland, SNOWE-MELLO of Androscoggin.

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

Sec. 1. 26 MRSA §1043, sub-§11, ¶E, as amended by PL 1979, c. 651, §45, is further amended to read:

E. Services performed by an individual for remuneration shall ~~be~~ are deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the bureau that the individual has been and will continue to be free from control or direction over the performance of the services, both under the individual's contract of service and in fact, and:

~~(1) -- Such individual has been and will continue to be free from control or direction over the performance of such services, both under his contract of service and in fact;~~

(2) ~~Sueh~~ The service is either outside the usual course of the business for which ~~sueh~~ that service is performed, or ~~that sueh service~~ is performed outside of all the places of business of the enterprise for which ~~sueh~~ that service is performed; and or

(3) ~~Sueh~~ The individual is customarily engaged in an independently established trade, occupation, profession or business.

SUMMARY

This purpose of this bill is to clarify and simplify the definition of "employment" under the laws governing unemployment compensation. The bill retains the underlying criterion of control or direction similar to the standards applied under the laws governing workers' compensation, Social Security and the Internal Revenue Service. If an individual meets the control or direction criterion, an employer seeking to exempt that individual as an independent contractor for purposes of unemployment compensation would be required to show either that the individual is customarily engaged in the work of an independent contractor or that the service is outside the usual course of the business for which that service is performed.