

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 522

H.P. 400

House of Representatives, February 2, 2007

An Act To Require the Posting of Proof of Workers' Compensation Insurance at Construction Sites

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Senator STRIMLING of Cumberland and
Representatives: BURNS of Berwick, JACKSON of Allagash, PATRICK of Rumford,
TUTTLE of Sanford, WATSON of Bath.

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

2 **Sec. 1. 39-A MRSA §153, sub-§5, ¶F** is enacted to read:

3 F. In addition to the abuse investigators appointed under paragraph A, the board
4 shall appoint, pursuant to Title 5, chapter 372, at least one abuse investigator who
5 must be qualified by experience and training to perform the duties of investigating
6 violations of section 324, subsection 3 and section 406 by a contractor and on a
7 construction site.

8 **Sec. 2. 39-A MRSA §154, sub-§1**, as enacted by PL 1991, c. 885, Pt. A, §8 and
9 affected by §§9 to 11, is amended to read:

10 **1. Use of fund.** All money credited to the Workers' Compensation Board
11 Administrative Fund must be used to support the activities of the board and for no other
12 purpose, except that funds received pursuant to section 324, subsection 3, paragraph B
13 and section 406 must be used to support the provisions of section 153, subsection 5,
14 paragraph F. Any balance remaining continues from year to year as a fund available for
15 the purposes set out in this section and for no other purpose.

16 **Sec. 3. 39-A MRSA §324, sub-§3**, as amended by PL 2003, c. 344, Pt. D, §28, is
17 further amended to read:

18 **3. Failure to secure payment.** If any employer who is required to secure the
19 payment to that employer's employees of the compensation provided for by this Act fails
20 to do so, the employer is subject to the penalties set out in paragraphs A, B ~~and~~ C and D.
21 The failure of any employer to procure insurance coverage for the payment of
22 compensation and other benefits to the employer's employees in compliance with sections
23 401 and 403 constitutes a failure to secure payment of compensation within the meaning
24 of this subsection.

25 A. The employer is guilty of a Class D crime.

26 B. The employer is liable to pay a civil penalty of up to \$10,000 or an amount equal
27 to 108% of the premium, calculated using Maine Employers' Mutual Insurance
28 Company's standard discounted standard premium, that should have been paid during
29 the period the employer failed to secure coverage, whichever is larger, payable to the
30 ~~Employment Rehabilitation Fund~~ Workers' Compensation Board Administrative
31 Fund established in section 154.

32 C. The employer, if organized as a corporation, is subject to administrative
33 dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do
34 business in this State as provided in Title 13-C, section 1532. The employer, if
35 licensed, certified, registered or regulated by any board authorized by Title 5, section
36 12004-A or whose license may be revoked or suspended by proceedings in the
37 District Court or by the Secretary of State, is subject to revocation or suspension of
38 the license, certification or registration.

39 D. If an abuse investigator under section 153, subsection 5 presents evidence at a
40 hearing conducted by the audit, enforcement and monitoring program established

1 pursuant to section 153, subsection 9 that an employer that is a contractor at a
2 construction site is in violation of this section, the audit, enforcement and monitoring
3 program may order that work be stopped at that construction site until the provisions
4 of this section have been satisfied.

5 Prosecution under paragraph A does not preclude action under paragraph B or C or D.

6 If the employer is a corporation, any agent of the corporation having primary
7 responsibility for obtaining insurance coverage is liable for punishment under this
8 section. Criminal liability must be determined in conformity with Title 17-A, sections 60
9 and 61.

10 **Sec. 4. 39-A MRSA §406**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected
11 by §§9 to 11, is amended to read:

12 **§406. Notices of assent to be posted**

13 A notice in a form as the board approves, stating that the notice is proof of insurance
14 and that the employer has conformed to this Act, together with other information as the
15 board determines, must be posted by the employer and kept posted by the employer in
16 each of the employer's mills, factories, construction sites or places of business. The
17 notice must be conspicuous and posted in a place accessible to the employer's employees
18 as determined by the board. A person who violates this section commits a civil violation
19 for which a fine of \$100 must be adjudged. The proceeds of a fine under this section
20 must be deposited into the Workers' Compensation Board Administrative Fund
21 established in section 154.

22 **SUMMARY**

23 This bill:

24 1. Requires that the Workers' Compensation Board hire an abuse investigator to
25 investigate whether contractors on construction sites provide workers' compensation
26 insurance coverage and are posting notices as required by the Maine Workers'
27 Compensation Act of 1992;

28 2. Dedicates to the Workers' Compensation Board Administrative Fund the proceeds
29 of fines for employers' failure to provide workers' compensation insurance coverage and
30 post notices as required by the Maine Workers' Compensation Act of 1992 to fund the
31 abuse investigator;

32 3. Redirects funds from penalties paid for failure to provide workers' compensation
33 insurance coverage from the Employment Rehabilitation Fund to the Workers'
34 Compensation Board Administrative Fund;

35 4. Allows the workers' compensation audit, enforcement and monitoring program to
36 stop work at a construction site if a contractor on the site has failed to provide workers'
37 compensation insurance coverage;

1 5. Requires that employers post a Workers' Compensation Board-approved notice of
2 proof of workers' compensation insurance coverage in a conspicuous place at the
3 employers' places of business, including construction sites; and

4 6. Makes failure to post a notice of proof of workers' compensation insurance
5 coverage a civil violation for which a \$100 fine must be adjudged.