

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 658

H.P. 472

House of Representatives, February 19, 2009

**An Act To Require United States Occupational Safety and Health
Administration Training for Government Construction Contracts**

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative WRIGHT of Berwick.
Cosponsored by Representatives: BUTTERFIELD of Bangor, WAGNER of Lyman,
WHEELER of Kittery.

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

2 Sec. 1. 26 MRSA §1309-A is enacted to read:

3 §1309-A. Contract to contain provisions relative to occupational health and safety
4 training

5 1. Training requirement. A contractor or subcontractor in charge of the
6 construction for a public works contract shall have a United States Department of Labor,
7 Occupational Safety and Health Administration 10-hour construction safety program for
8 its on-site employees, other than those exempt under subsection 2. A nonexempt
9 employee is required to complete the program prior to beginning work. The training
10 program must use a curriculum approved by the United States Occupational Safety and
11 Health Administration and certify the successful completion of the training program.

12 For purposes of this subsection, "public works contract" means any contract for public
13 works with a total project cost of \$100,000 or more.

14 2. Exempt individuals. The training requirement under subsection 1 does not apply
15 to:

- 16 A. Law enforcement officers involved with traffic control or work site security;
- 17 B. Flagging personnel who have completed the training required by the Department
18 of Transportation;
- 19 C. All relevant federal, state and municipal government employees and inspectors;
20 and
- 21 D. All individuals who are not considered to be on the work site under the federal
22 Davis-Bacon Act, 40 United States Code, section 276a et seq., including, but not
23 limited to, construction and nonconstruction delivery personnel and nontrade
24 personnel.

25 3. Penalties and enforcement. Notwithstanding the penalties provided in section
26 1312, a contractor or subcontractor in charge of construction for a public works contract
27 who willfully and knowingly violates this section is subject to:

- 28 A. Removal from the work site by the Commissioner of Labor or the commissioner's
29 designee of an employee who does not provide documentation of the employee's
30 having met the training requirement under subsection 1 by the 15th day after the date
31 the employee is found to be in noncompliance. Proof of such documentation
32 provided by the contractor or subcontractor constitutes compliance with this section;
- 33 B. A fine of no more than \$2,500; and
- 34 C. An additional fine of \$100 per employee in noncompliance with this section for
35 each day of noncompliance.

36 The Commissioner of Labor shall appoint as many individuals as necessary to carry
37 out the responsibilities of the Department of Labor under this section.

SUMMARY

1
2 This bill requires that a contractor or subcontractor entering into a public works
3 contract that is for \$100,000 or more provide proof of documentation demonstrating that
4 all nonexempt employees working on that project have completed a construction safety
5 program, no shorter than 10 hours in duration, approved by the United States Department
6 of Labor, Occupational Safety and Health Administration.

7 The exempt employees include law enforcement officers involved in traffic control or
8 work site security, flagging personnel who have completed the training required by the
9 Department of Transportation, all relevant federal, state and municipal government
10 employees and inspectors and all individuals who are not considered to be on the work
11 site under the federal Davis-Bacon Act.

12 The bill also specifies, notwithstanding fines provided in existing law, that a
13 contractor or subcontractor who willfully and knowingly violates these requirements is
14 subject to removal of an employee from the work site and the assessment of fines.