

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1528

S.P. 586

In Senate, December 17, 2009

**An Act To Enhance Cooperation between the Workers'
Compensation Board's Abuse Investigation Unit and Other State
Agencies and To Ensure Equal Application of the Requirement To
Obtain Coverage**

Reported by Senator JACKSON of Aroostook for the Workers' Compensation Board pursuant to the Maine Revised Statutes, Title 39-A, section 152, subsection 11.

Received by the Secretary of the Senate on December 17, 2009. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

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

2 **Sec. 1. 39-A MRSA §153, sub-§5, ¶B**, as enacted by PL 1991, c. 885, Pt. A, §8
3 and affected by §§9 to 11; is amended to read:

4 B. The unit shall, at the direction of the board, investigate all complaints or
5 allegations of fraud, illegal or improper conduct or violation of this Act or rules of the
6 board relating to workers' compensation insurance, benefits or programs, including
7 those acts by employers, employees or insurers. All records, correspondence and
8 reports of investigation in connection with actual or alleged fraud, illegal or improper
9 conduct or violation of this Act or rules of the board and all records, correspondence
10 and reports of criminal prosecution or civil action are confidential. The confidential
11 nature of any such record, correspondence or report does not limit or affect the use of
12 those materials in any prosecution or action or prevent the board, upon request, from
13 providing information to another state agency for use by the agency in enforcing laws
14 and rules.

15 **Sec. 2. 39-A MRSA §324, s b-§3**, as amended by PL 2003, c. 344, Pt. D, §28, is
16 further amended to read:

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

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

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

30 C. The employer, if organized as a corporation, is subject to administrative
31 dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do
32 business in this State as provided in Title 13-C, section 1532. The employer, if
33 organized as a domestic limited liability company, is subject to administrative
34 dissolution as provided in Title 31, section 608-B. The employer, if licensed,
35 certified, registered or regulated by any board authorized by Title 5, section 12004-A
36 or whose license may be revoked or suspended by proceedings in the District Court
37 or by the Secretary of State, is subject to revocation or suspension of the license,
38 certification or registration.

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

40 If the employer is a corporation, partnership, limited liability company, professional
41 corporation or any other legal business entity recognized under the laws of the State, any
42 agent of the corporation or legal business entity having primary responsibility for

1 obtaining insurance coverage is liable for punishment under this section. Criminal
2 liability must be determined in conformity with Title 17-A, sections 60 and 61.

3

SUMMARY

4 This bill clarifies that the Workers' Compensation Board's abuse investigation unit
5 may share information with other state agencies to enhance interagency efforts to ensure
6 compliance with their respective laws and rules.

7 This bill also ensures that the coverage penalties in the Maine Workers'
8 Compensation Act of 1992 are applied in the same manner to all business entities.