

MAINE STATE LEGISLATURE

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SMA
R. 01

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
124TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 1102,
L.D. 1565, Bill, "An Act To Amend the Laws Governing the Knowing Misclassification
of Construction Workers"

Amend the amendment in section 1 by striking out all of subsection 5 and inserting
the following:

5. Stop-work orders. In addition to any penalty imposed under section 324,
subsection 3, if after a hearing the executive director determines that a hiring agent or
construction subcontractor has knowingly failed to secure the payment to that hiring
agent's or construction subcontractor's employees of the compensation provided for by
this Act, the executive director or the executive director's designee shall issue a stop-work
order pursuant to this subsection. The issuance of a stop-work order by the executive
director or the executive director's designee constitutes final agency action.

A. A hiring agent or construction subcontractor must receive at least 3 business days'
notice of a hearing regarding a stop-work order. The executive director or the
executive director's designee shall stay the issuance of a stop-work order if the hiring
agent or subcontractor provides evidence acceptable to the executive director or the
executive director's designee that the hiring agent or subcontractor has provided and
will continue to provide workers' compensation coverage for the employees of that
hiring agent or subcontractor or for the individuals whose status as employees or
independent contractors is in question. Providing such coverage may not be evidence
at the hearing that the hiring agent or subcontractor was required to do so under this
Act.

B. If the executive director or the executive director's designee finds at the hearing
that the hiring agent or construction subcontractor knowingly failed to provide a
workers' compensation insurance policy, the executive director or the executive
director's designee shall issue a stop-work order effective immediately on the
conclusion of the hearing to that hiring agent or construction subcontractor at the
construction site at which the executive director or executive director's designee has
determined a violation occurred, unless the hiring agent or subcontractor has
provided coverage and will continue to do so pursuant to paragraph A.

C. A stop-work order issued pursuant to this subsection remains in effect until the
executive director or the executive director's designee issues an order releasing the

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1 stop-work order upon finding that the hiring agent or construction subcontractor has
2 come into compliance with the requirements of this subsection and has paid any
3 penalty assessed under section 324, subsection 3 or has entered into a penalty
4 payment agreement with the board.

5 D. A stop-work order issued pursuant to this subsection against a hiring agent or
6 construction subcontractor applies to any successor firm, corporation or partnership
7 of the hiring agent or construction subcontractor in the same manner as it applies to
8 the hiring agent or construction subcontractor.

9 E. Any payment or performance bond issued on or in relation to a construction
10 project subject to a stop-work order may not cover any exposure arising out of or
11 during the shutdown of that project.

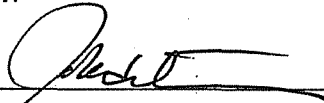
12 For purposes of this subsection, a violation is considered knowing if the hiring agent or
13 construction subcontractor has previously obtained workers' compensation insurance and
14 the insurance has been cancelled or the insurance has not been continued or renewed; has
15 been notified in writing by the board of the need for workers' compensation insurance; or
16 has had one or more previous violations of the requirement to secure the payment to that
17 hiring agent's or construction subcontractor's employees of the compensation provided for
18 by this Act.'

19 **SUMMARY**

20 This amendment authorizes the Executive Director of the Workers' Compensation
21 Board or the executive director's designee to stay a stop-work order if a hiring agent or
22 construction subcontractor provides evidence that the hiring agent or subcontractor has
23 complied with the provisions of the Maine Workers' Compensation Act of 1992. It also
24 extends the notice of hearing provision from 48 hours to 3 business days.

25 This amendment also protects an issuer of surety bonds from liability when a
26 payment or a performance bond is required of a hiring agent or construction
27 subcontractor and that hiring agent or construction subcontractor is subject to a stop-work
28 order from the Executive Director of the Workers' Compensation Board.

29 This amendment also defines what will be considered a knowing violation of the
30 provision requiring that workers' compensation insurance be obtained for the purpose of
31 issuing a stop-work order.

32 **SPONSORED BY:** 
33 **(Representative MARTIN, J. L.)**
34 **TOWN: Eagle Lake**