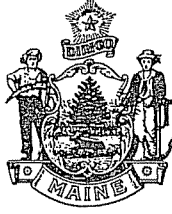


MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1565

H.P. 1102

House of Representatives, December 21, 2009

**An Act To Amend the Laws Governing the Knowing
Misclassification of Construction Workers**

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

Received by the Clerk of the House on December 17, 2009. 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 MARTIN of Eagle Lake.
Cosponsored by Senator JACKSON of Aroostook.

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

2 **Sec. 1. 39-A MRSA §105-A, sub-§3,** as enacted by PL 2009, c. 452, §5, is
3 amended to read:

4 **3. Penalties.** A person who is required to but fails to secure the payment of
5 compensation with respect to persons deemed to be that person's employees under this
6 section is subject to the penalties under section 324, subsection 3. A person against
7 whom a stop-work order is issued pursuant to subsection 5, in addition to any penalty
8 imposed under section 324, subsection 3, is prohibited from contracting, directly or
9 indirectly, with the State or any of its agencies, authorities or political subdivisions for the
10 construction of any public building or other public work projects and from performing
11 any work on any such public building or public work projects for a period of 3 years from
12 the date of the issuance of the stop-work order.

13 **Sec. 2. 39-A MRSA §105-A, sub-§5** is enacted to read:

14 **5. Stop-work orders.** If th executive director of the board determines, after
15 investigation, that a hiring agent or construction subcontractor knowingly failed to
16 provide a workers' compensation insurance policy, knowingly misrepresented one or
17 more employees as independent contractors or knowingly provided false, incomplete or
18 misleading information to the board concerning the number of employees, the executive
19 director shall issue, not later than 72 hours after making the determination, a stop-work
20 order requiring the cessation of all business operations of that hiring agent or construction
21 subcontractor at every construction site at which the executive director has determined a
22 violation occurred. The order takes effect when served upon the hiring agent or
23 construction subcontractor, who must immediately post the order at the relevant
24 construction site. The order remains in effect until the executive director issues an order
25 releasing the stop-work order upon finding that the hiring agent or construction
26 subcontractor has come into compliance with the requirements of this section and has
27 paid any penalty assessed under section 324, subsection 3. A stop-work order issued
28 pursuant to this subsection against a hiring agent or construction subcontractor applies to
29 any successor firm, corporation or partnership of the hiring agent or construction
30 subcontractor in the same manner as it applies to the hiring agent or construction
31 subcontractor. A hiring agent or construction subcontractor who is subject to a stop-work
32 order may apply to the executive director, not more than 10 days after the order is issued,
33 for a hearing to contest whether the hiring agent or construction subcontractor committed
34 the violation on which the order was based, and the hearing must be afforded to the hiring
35 agent or construction subcontractor and a decision rendered within 48 hours of the
36 application.

37

SUMMARY

38 This bill authorizes the Executive Director of the Workers' Compensation Board to
39 issue a stop-work order if a hiring agent or construction subcontractor has knowingly
40 misrepresented one or more employees as independent contractors, knowingly failed to
41 provide a workers' compensation insurance policy or knowingly provided false,
42 incomplete or misleading information to the board concerning the number of employees.

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This bill also prohibits that hiring agent or construction subcontractor from performing work on a public building or other public works for a period of 3 years.