

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

SECOND REGULAR SESSION

January 8, 1992 to March 31, 1992

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1992

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 825

H.P. 1648 - L.D. 2310

**An Act to Abolish the Second Injury Fund and
Repeal the Employment Rehabilitation Fund
Assessment**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there will be savings to Maine employers from these changes to the workers' compensation laws; and

Whereas, unless immediate action is taken, an assessment will be levied against insurers on June 30, 1992; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 39 MRSA §57-B, sub-§13, as amended by PL 1991, c. 615, Pt. A, §31, is further amended to read:

13. Applicability. Reimbursement under this section is available solely with respect to employees who are injured and rehabilitated after the effective date of this section. ~~If reimbursement is available from the Employment Rehabilitation Fund under this section, reimbursement may not be available under section 57-D.~~

Sec. 2. 39 MRSA §57-B, sub-§§14 and 15 are enacted to read:

14. Contributions to Employment Rehabilitation Fund. In every case of the death of an employee when there is no person entitled to compensation, the employer shall pay to the Treasurer of State a sum equal to 100 times the average weekly wage in the State as computed by the Employment Security Commission for benefit of the Employment Rehabilitation Fund.

15. Transitional eligibility. Employers and insurance carriers that are receiving reimbursement from the Second Injury Fund under former section 57 or from the Employment Rehabilitation Fund under former section 57-D continue to receive reimbursement. The Employment Rehabilitation Fund is not liable for any claim for which the former Second Injury Fund is not making payment as of the effective date of this subsection.

Sec. 3. 39 MRSA §57-C, as amended by PL 1991, c. 615, Pt. A, §32, is further amended to read:

§57-C. Records and reports; inspections

~~1. Rate of assessment.~~ There is levied and imposed an assessment on each insurer at the rate of 1/2% in 1986, and 1% thereafter, of its actual paid losses during the previous calendar quarter.

~~2. Due date.~~ The assessment imposed by this section is due on or before the last day of the 2nd month after the close of the calendar quarter.

~~3. Assessment waived.~~ If, at the end of a calendar quarter, the amount of deposit in the Employment Rehabilitation Fund, in that portion attributable to this section, is equal to or exceeds the amount derived from the last assessment, the assessment for that quarter must be waived and not levied or imposed.

~~A. The Treasurer of State shall notify the State Tax Assessor on the day after the end of the calendar quarter, if the fund equals or exceeds that amount.~~

~~B. If so notified, the State Tax Assessor shall immediately notify each insurer that the assessment is waived for that quarter.~~

4. Records and reports. Every insurer shall keep as part of ~~his~~ the insurer's permanent records a record of the amount of each loss paid and its date and the records shall must be open for inspection at all times. Every insurer shall, on or before the 60th day following the end of a calendar quarter, render a report to the State Tax Assessor stating the amount of losses paid by ~~him~~ the insurer during the preceding calendar quarter. That report shall must contain any further information the State Tax Assessor shall prescribe by rule. ~~With that report, each insurer shall forward payment of the assessment amount due.~~

~~5. Appropriation of money received.~~ The State Tax Assessor shall pay all receipts from that assessment to the Treasurer of State daily. The Treasurer of State shall deposit all receipts as received in the Employment Rehabilitation Fund.

6. Inspections. The State Tax Assessor or his a duly authorized agent, for the purpose of determining the truth or falsity of any statement or return made by the insurer, may:

A. Enter any place of business of an insurer to inspect any books or records of the insurer;

B. Notwithstanding any other provision of law, inspect any records or reports filed by an insurer with the Superintendent of Insurance; and

C. Delegate these powers to the Superintendent of Insurance, ~~his the superintendent's~~ deputies, agents or employees.

~~7. Civil action. Whenever any insurer fails to pay any assessment due under this section within the time limit, the Attorney General shall enforce payment by civil action against that insurer for the amount of the assessment in the Superior Court in and for the county or the District Court in the division in which that insurer has his place of business, or in the Superior Court of Kennebec County.~~

8. Definition. For the purposes of this section, "insurer" means an insurance company or association ~~which that~~ does business or collects premiums for workers' compensation insurance in this State or an individual or group self-insurer under this Act, including the State and other public or governmental authority.

Sec. 4. 39 MRSA §57-D, as enacted by PL 1991, c. 615, Pt. A, §33, is repealed.

Sec. 5. 39 MRSA §57-E, as enacted by PL 1991, c. 615, Pt. A, §34, is repealed.

Sec. 6. 39 MRSA §104-A, sub-§2-B, amended by PL 1989, c. 503, Pt. B, §180, is further amended to read:

2-B. Failure to secure payment. If any employer, who is required to secure the payment to his employees of the compensation provided for by this Act, fails to do so, the employer is subject to the penalties set out in paragraphs A, B and C. The failure of any employer to procure insurance coverage for the payment of compensation and other benefits to his employees in compliance with sections 21-A and 23 constitutes a failure to secure payment of compensation within the meaning of this subsection.

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

B. The employer is liable to pay a civil penalty of up to \$10,000, payable to the ~~Second Injury~~ Employment Rehabilitation Fund.

C. The employer, if organized as a corporation, is subject to revocation or suspension of its authority to do business in this State as provided in Title 13-A, section 1302. The employer, if licensed, certified, registered or regulated by any board authorized by Title 5, section 12004-A, or whose license may be revoked or suspended by proceedings in the Administrative Court or by the Secretary of State, is subject to revocation or suspension of ~~his~~ the employer's license, certification or registration.

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

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

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 6, 1992.

CHAPTER 826

H.P. 1673 - L.D. 2349

An Act to Provide Regulatory and Permitting Assistance to Businesses

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State is suffering a severe recession that has an impact on the business community; and

Whereas, the process of obtaining permits and licenses is seen by business as costly and time consuming; and

Whereas, many other states have found various regulatory and permitting information, assistance, advocacy and one-stop centers to be of assistance to the business community; and

Whereas, under its broad general mandate the Department of Economic and Community Development currently performs some information and assistance functions that might well be eliminated by the budget crisis since they are not currently explicitly required by law; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §13054, sub-§2-A is enacted to read:

2-A. Permit. "Permit" means a license, certificate, registration or other authorization required by a governmental agency for a business undertaking. "Permit" includes, but is not limited to, a permit by rule