

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

Sec. 1. 39-A MRSA §105-A, sub-§5 is enacted to read:

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

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

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

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

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

WORKERS' COMPENSATION BOARD

Administration - Workers' Compensation Board 0183

Initiative: Allocates funds to enhance enforcement of laws prohibiting the misclassification of workers by establishing one Management Analyst II position at range 24 and one Auditor III position at range 25. Notwithstanding any other provision of law, the Management Analyst II position and the Auditor III position must be funded from the Workers' Compensation Board's reserve account pursuant to the Maine Revised Statutes, Title 39-A, section 154, subsection 6, paragraph B.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$161,773
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$161,773

Effective July 12, 2010