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An Act To Require the Posting of Proof of Workers' Compensation Insurance at Construction Sites

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

Sec. 1. 39-A MRSA §153, sub-§5, ¶F is enacted to read:

F. In addition to the abuse investigators appointed under paragraph A, the board shall appoint, pursuant to Title 5, chapter 372, at least one abuse investigator who must be qualified by experience and training to perform the duties of investigating violations of section 324, subsection 3 and section 406 by a contractor and on a construction site.

Sec. 2. 39-A MRSA §154, sub-§1, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

1. Use of fund. All money credited to the Workers' Compensation Board Administrative Fund must be used to support the activities of the board and for no other purpose, except that funds received pursuant to section 324, subsection 3, paragraph B and section 406 must be used to support the provisions of section 153, subsection 5, paragraph F. Any balance remaining continues from year to year as a fund available for the purposes set out in this section and for no other purpose.

Sec. 3. 39-A MRSA §324, sub-§3, as amended by PL 2003, c. 344, Pt. D, §28, is further amended to read:

3. Failure to secure payment. If any employer who is required to secure the payment to that employer's 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 and D. The failure of any employer to procure insurance coverage for the payment of compensation and other benefits to the employer's employees in compliance with sections 401 and 403 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 or an amount equal to 108% of the premium, calculated using Maine Employers' Mutual Insurance Company's standard discounted standard premium, that should have been paid during the period the employer failed to secure coverage, whichever is larger, payable to the Employment Rehabilitation Fund Workers' Compensation Board Administrative Fund established in section 154.

C. The employer, if organized as a corporation, is subject to administrative dissolution as provided in Title 13-C, section 1421 or revocation of its authority to do business in this State as provided in Title 13-C, section 1532. 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 District Court or by the Secretary of State, is subject to revocation or suspension of the license, certification or registration.

D. If an abuse investigator under section 153, subsection 5 presents evidence at a hearing conducted by the audit, enforcement and monitoring program "established pursuant to section 153, subsection 9 that an employer that is a contractor at a construction site is in violation of this section, the audit, enforcement and monitoring program may order that work be stopped at that construction site until the provisions of this section have been satisfied.

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

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 must be determined in conformity with Title 17-A, sections 60 and 61.

Sec. 4. 39-A MRSA §406, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§ 406. Notices of assent to be posted

A notice in a form as the board approves, stating that the notice is proof of insurance and that the employer has conformed to this Act, together with other information as the board determines, must be posted by the employer and kept posted by the employer in each of the employer's mills, factories, construction sites or places of business. The notice must be conspicuous and posted in a place accessible to the employer's employees as determined by the board. A person who violates this section commits a civil violation for which a fine of \$100 must be adjudged. The proceeds of a fine under this section must be deposited into the Workers' Compensation Board Administrative Fund established in section 154.

SUMMARY

This bill:

1. Requires that the Workers' Compensation Board hire an abuse investigator to investigate whether contractors on construction sites provide workers' compensation insurance coverage and are posting notices as required by the Maine Workers' Compensation Act of 1992;
2. Dedicates to the Workers' Compensation Board Administrative Fund the proceeds of fines for employers' failure to provide workers' compensation insurance coverage and post notices as required by the Maine Workers' Compensation Act of 1992 to fund the abuse investigator;
3. Redirects funds from penalties paid for failure to provide workers' compensation insurance coverage from the Employment Rehabilitation Fund to the Workers' Compensation Board Administrative Fund;

4. Allows the workers' compensation audit, enforcement and monitoring program to stop work at a construction site if a contractor on the site has failed to provide workers' compensation insurance coverage;

5. Requires that employers post a Workers' Compensation Board-approved notice of proof of workers' compensation insurance coverage in a conspicuous place at the employers' places of business, including construction sites; and

6. Makes failure to post a notice of proof of workers' compensation insurance coverage a civil violation for which a \$100 fine must be adjudged.