

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 Knowing 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-§3, as enacted by PL 2009, c. 452, §5, is amended to read:

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

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

5. Stop-work orders. If the executive director of the board determines, after investigation, that a hiring agent or construction subcontractor knowingly failed to provide a workers' compensation insurance policy, knowingly misrepresented one or more employees as independent contractors or knowingly provided false, incomplete or misleading information to the board concerning the number of employees, the executive director shall issue, not later than 72 hours after making the determination, a stop-work order requiring the cessation of all business operations of that hiring agent or construction subcontractor at every construction site at which the executive director has determined a violation occurred. The order takes effect when served upon the hiring agent or construction subcontractor, who must immediately post the order at the relevant construction site. The order remains in effect until the executive director 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 section and has paid any penalty assessed under section 324, subsection 3. 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. A hiring agent or construction subcontractor who is subject to a stop-work order may apply to the executive director, not more than 10 days after the order is issued, for a hearing to contest whether the hiring agent or construction subcontractor committed the violation on which the order was based, and the hearing must be afforded to the hiring agent or construction subcontractor and a decision rendered within 48 hours of the application.

SUMMARY

This bill authorizes the Executive Director of the Workers' Compensation Board to issue a stop-work order if a hiring agent or construction subcontractor has knowingly misrepresented one or more employees

as independent contractors, knowingly failed to provide a workers' compensation insurance policy or knowingly provided false, incomplete or misleading information to the board concerning the number of employees. 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.