

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

An Act Concerning Independent Contractors in the Trucking and Messenger Courier Industries

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

Sec. 1. 39-A MRSA §114 is enacted to read:

§ 114. Independent contractor status for truckers and couriers

1. Presumption of employee status. Notwithstanding section 102, subsection 13, the operator of a motor vehicle engaged in the business of freight transportation or courier and messenger services is considered an employee unless all of subsection 2 applies, in which case the operator is considered an independent contractor. For purposes of this section, "motor vehicle" includes an automobile, van, truck and truck-tractor.

2. Factors to determine independent contractor status. An operator of a motor vehicle is considered an independent contractor in the business of freight transportation or courier and messenger services if the operator:

- A. Owens the motor vehicle or holds it under a bona fide lease agreement;
- B. Is responsible for the maintenance of the motor vehicle;
- C. Is responsible for substantially all of the principal operating expenses of the motor vehicle, including without limitation fuel, repairs, supplies and insurance. The operator may be reimbursed, including prospectively, for the operator's fuel surcharge fees and incidental costs, including tolls, permits and freight handling fees, by the entity contracting with the operator;
- D. Is responsible for paying the operator's personal expenses;
- E. Is responsible for supplying the necessary services to operate the motor vehicle;
- F. Is compensated based on factors directly related to the work performed, such as mileage-based rates, and not solely on the amount of time expended by the operator;
- G. Substantially controls the means and manner of performing the services related to the business of freight transportation or courier and messenger services in conformance with the specifications of a shipper and the law; and
- H. Enters into a written contract with a shipper specifying that the operator is an independent contractor and not an employee of the shipper.

SUMMARY

This bill establishes a set of factors to determine whether an individual engaged in the business of freight transportation or courier and messenger services is an employee or an independent contractor for purposes of the workers' compensation laws.