



127th MAINE LEGISLATURE

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Legislative Document

No. 699

H.P. 475

House of Representatives, March 5, 2015

An Act To Update Maine Law To Conform to New Federal Occupational Safety and Health Administration Regulations

(EMERGENCY)

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HERBIG of Belfast.
Cosponsored by Senator VOLK of Cumberland and
Representatives: AUSTIN of Gray, WARD of Dedham, Senator: PATRICK of Oxford.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the United States Occupational Safety and Health Administration
4 implemented changes to its injury and illness recordkeeping requirements that became
5 effective January 1, 2015; and

6 **Whereas,** the State became a so-called state plan state for public sector employers in
7 an effort to decrease General Fund costs and employer costs; and

8 **Whereas,** state plan states must conform their statutes to the new federal provisions
9 no later than July 1, 2015; and

10 **Whereas,** the State's lack of compliance with the injury and illness recordkeeping
11 requirements would cause loss of reimbursement to the State; and

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

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

17 **Sec. 1. 26 MRSA §2,** as repealed and replaced by PL 2003, c. 244, §1, is amended
18 to read:

19 **§2. Reports of deaths and injuries**

20 **1. Reports of deaths.** The person in charge of any workplace as defined in section 1
21 provided by the State, a state agency, a county, a municipal corporation, a school district
22 or other public corporation or political subdivision shall, within 8 hours after the
23 occurrence, report ~~in writing or by telephone~~ the death of any person in the workplace or
24 on the premises to the Director of the Bureau of Labor Standards ~~the death of any person~~
25 ~~in the workplace or on the premises,~~ or the director's designee, by telephone or
26 electronically, stating as fully as possible the cause of the death and the place where the
27 deceased person has been sent and supplying other information relative to the death that
28 may be required by the director who may investigate the causes of the death and require
29 such precautions to be taken as will prevent the recurrence of similar events. A statement
30 contained in any such report is not admissible in evidence in any action arising out of the
31 death reported.

32 **2. Reports of serious physical injuries.** The person in charge of any workplace as
33 defined in section 1 provided by the State, a state agency, a county, a municipal
34 corporation, a school district or other public corporation or political subdivision shall,
35 within 24 hours after the occurrence, report ~~in writing or by telephone~~ all serious physical
36 injuries requiring immediate hospitalization sustained by any person in the workplace or
37 on the premises to the Director of the Bureau of Labor Standards ~~all serious physical~~
38 ~~injuries requiring immediate hospitalization sustained by any person in the workplace or~~
39 ~~on the premises,~~ or the director's designee, by telephone or electronically, stating as fully

1 as possible the extent and cause of the injury and the place where the injured person has
2 been sent and supplying other information relative to the injury that may be required by
3 the director who may investigate the causes of the injury and require such precautions to
4 be taken as will prevent the recurrence of similar events. A statement contained in any
5 such report is not admissible in evidence in any action arising out of the accident
6 reported.

7 **3. Serious physical injuries defined.** "Serious physical injuries," as used in this
8 section, means an incident that results in an amputation, loss or fracture of any body part
9 or that necessitates immediate hospitalization or formal admission to the inpatient service
10 of a hospital or clinic for care or treatment.

11 **Sec. 2. 26 MRSA §44, first ¶**, as amended by PL 2013, c. 473, §2, is further
12 amended to read:

13 The director as state factory inspector, and any authorized agent of the bureau, may
14 enter any workplace as defined in section 1, provided by the State or by a state agency,
15 county, municipal corporation, school district or other public corporation or political
16 subdivision when the same are open or in operation, for the purpose of gathering facts
17 and statistics under sections 42 to 44, and may examine the methods of protecting
18 employees from danger, the safety and health of employees and ~~the~~ sanitary conditions in
19 and around ~~the~~ such buildings and places, and may make a record of such inspection.
20 Upon petition of the director, a Superior Court in the county in which any refusal to
21 permit entry or fact gathering or inspection was alleged to have occurred may order
22 appropriate injunctive relief against any person in charge of the workplace who refuses
23 entry to the director or authorized agent of the bureau.

24 **Emergency clause.** In view of the emergency cited in the preamble, this
25 legislation takes effect when approved.

26 SUMMARY

27 This bill ensures that the Department of Labor, Bureau of Labor Standards is in
28 compliance with recent changes made by the federal Occupational Safety and Health
29 Administration to its injury and illness recordkeeping requirements. The federal
30 Occupational Safety and Health Administration requires state plan states to implement
31 these changes to conform to the new requirements no later than July 1, 2015, or risk a
32 loss of federal reimbursement.

33 Under current law, a person in charge of a workplace is required to report in writing
34 or by telephone to the Director of the Bureau of Labor Standards the death of any person
35 in the workplace or a serious physical injury requiring hospitalization sustained by a
36 person in the workplace. This bill replaces the requirement to report in writing or by
37 telephone with a requirement to report by telephone or electronically and provides that
38 the report may be made to the director or the director's designee. It amends the definition
39 of "serious physical injury." It also authorizes the director and any authorized agent of
40 the bureau to enter a public sector workplace for the purpose of examining the safety and
41 health of employees.