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Date: (Filing No. H-)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 960, L.D. 1314, Bill, “An Act To Standardize the Definition of "Independent Contractor"”

Amend the amendment by inserting after section 10 the following:

Sec. 11. 39-A MRSA §401, sub-§1, as amended by PL 2001, c. 235, §§2 and 3, is further amended to read:

1. Private employers. Every private employer, including an independent contractor who hires and pays employees, is subject to this Act and shall secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to all employees, subject to the provisions of this section. Unless employed by a private employer, a person engaged in harvesting forest products is subject to this Act and shall secure the payment of compensation in conformity with this section and sections 402 to 407 with respect to that person individually if that person is an employee as defined in section 102, subsection 11, paragraph B-1.

A private employer who has not secured the payment of compensation under this section and sections 402 to 407 is not entitled, in a civil action brought by an employee or the employee's representative for personal injuries or death arising out of and in the course of employment, to the defense set forth in section 103. The employee of any such employer may, instead of bringing a civil action, claim compensation from the employer under this Act.

The following employers are not liable under this section for securing the payment of compensation in conformity with this section and sections 402 to 407 with respect to the employees listed, nor deprived of the defenses listed in section 103:

- A. Employers of employees engaged in domestic service;
- B. Employers of employees engaged in agriculture or aquaculture as seasonal or casual laborers, if the employer maintains coverage by an employer's liability insurance policy with total limits of not less than \$25,000 and medical payment coverage of not less than \$5,000.
 - (1) As used in this subsection, "casual" means occasional or incidental. "Seasonal" refers to laborers engaged in agricultural or aquacultural employment

HOUSE AMENDMENT

1 beginning at or after the commencement of the planting or seeding season and
2 ending at or before the completion of the harvest season; and

3 C. Employers of agricultural or aquacultural laborers, if:

4 (3) The employer has 6 or fewer agricultural or aquacultural laborers or the
5 employer has more than 6 such laborers but the total number of hours worked by
6 all such laborers in a week does not exceed 240 and has not exceeded 240 at any
7 time during the 52 weeks immediately preceding the injury; and

8 (4) The employer maintains an employer's liability insurance policy with total
9 limits of not less than \$100,000 multiplied by the number of full-time equivalent
10 agricultural or aquacultural laborers employed by that employer and medical
11 payment coverage of not less than \$5,000.

12 For purposes of this paragraph, seasonal and casual workers, immediate family
13 members of unincorporated employers and immediate family members of bona fide
14 owners of at least 20% of the voting stock of an incorporated employer are not
15 considered agricultural or aquacultural laborers. "Immediate family members" means
16 parents, spouses, brothers, sisters and children.

17 The burden of proof to establish an exempt status under this subsection is on the
18 employer claiming the exemption.'

19 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
20 or section number to read consecutively.

21 **SUMMARY**

22 This amendment specifies that independent contractors who hire and pay employees
23 are subject to the Maine Workers' Compensation Act of 1992.

24 **SPONSORED BY:** _____

25 **(Representative MARTIN, J.)**

26 **TOWN: Eagle Lake**