

FORM WCB-265 APPLICATION FOR PREDETERMINATION

OPERATOR – FREIGHT TRANSPORTATION
or
COURIER & MESSENGER SERVICES

NOTICE

- The predetermination process is voluntary under the Maine Workers' Compensation Act.
- If you are injured you can still file a claim for benefits with the Board—you do not give up any rights under Maine's Workers' Compensation Law by filing this Predetermination.
- You may have other rights as an employee under Maine law.
- Approved predeterminations are valid for one year from the date of approval.

Pursuant to section 105 of the Maine Workers' Compensation Act,
_____ (**Applicant-Operator**) requests a predetermination
by the Maine Workers' Compensation Board that the Applicant is an independent contractor
in accordance with section 114 of the Act.

Operator Name:
Operator d/b/a (if applicable):
Operator physical address:
Operator mailing address:
Operator telephone:
Operator email address:

Note: Information provided on this form, not otherwise confidential, may be shared with other state and federal agencies.

The State of Maine does not discriminate on the basis of disability in admission to, access to, or operation of its programs or activities. This material can be made available in alternate formats by contacting the Workers' Compensation Board ADA Coordinator.

IMPORTANT: PLEASE READ BEFORE COMPLETING APPLICATION

NOTICE TO OPERATOR: You will be notified in writing of the Board's decision to approve or deny your Application for Predetermination. Predeterminations are valid for one year from the date of approval.

Section 114 also requires operators have a statement for every entity for which the operator provides services. The statement must certify the operator meets each of the seven (7) factors in Section 114, it must state the operator is an independent contractor and not an employee, AND the statement must be signed and dated by the operator and the hiring entity. The statement must be supplied on demand to an insurance premium auditor or the Board. For your information, Section 114 is reproduced on page 4 of this Application.

AN APPLICATION IS NOT COMPLETE UNLESS YOU ANSWER ALL OF THE FOLLOWING QUESTIONS, PROVIDE ALL REQUIRED INFORMATION, AND SIGNATURES. INCOMPLETE APPLICATIONS MAY BE DENIED.

For purposes of this Predetermination, a "motor vehicle" is defined as a van, truck or truck tractor used for freight transportation or courier and messenger services.

Before completing the rest of the form, please answer the following question:

Do you have a valid workers' compensation insurance policy? _____ YES _____ NO

If **YES**, attach a copy of the document showing your current workers' compensation coverage. **You may skip the remaining questions – sign and date the final page of the application.**

(1) Do you own or lease the motor vehicle(s) used to transport freight or provide courier and messenger services? _____ YES _____ NO

If you **OWN** the vehicle, you must attach a copy of the current registration for each motor vehicle that you will be using. **# of registrations attached:** _____

If you **LEASE** the vehicle, please provide a copy of a current lease agreement for each motor vehicle that you will be using. **# of leases attached:** _____

If you do not own or lease the motor vehicle(s) being used, this application may be denied.

(2) Are you responsible for the maintenance of the motor vehicle?
_____ YES _____ NO

(3) Do you pay for substantially all of the principal operating expenses of the motor vehicle? (For example, principal operating expenses include fuel, repairs, supplies, and insurance but do not include money you receive from the hiring entity for fuel

surcharge fees and incidental costs including tolls, permits and freight handling fees.)

_____ YES _____ NO

(4) Are you responsible for paying your own personal expenses?

_____ YES _____ NO

(5) Are you responsible for supplying the necessary services to operate the motor vehicle?

_____ YES _____ NO

(6) Is your compensation based on factors directly related to the work performed, such as mileage-based rates, and not solely on the amount of time?

_____ YES _____ NO

(7) Do you substantially control 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?

_____ YES _____ NO

O P E R A T O R

Read carefully and sign below:

I hereby certify that the foregoing information is truthful and accurate. I understand that this Predetermination is based upon the information provided in this application, and if any information contained in this application is found to be intentionally misleading or fraudulent, the predetermination shall be nullified and I may be subject to fines of up to \$1,000 for an individual and up to \$10,000 for a corporation, partnership or other legal entity and/or criminal prosecution.

I further understand that this predetermination of independent contractor status is based upon the circumstances described in this application. I understand that changes in these circumstances may nullify the predetermination of independent contractor status. I agree to notify the Workers' Compensation Board of any subsequent changes to the information in this application or the circumstances described herein.

Date

Signature of Operator

Print Name Operator

Section 114 of the Maine Workers' Compensation Act states:

2. **Factors to determine independent contractor status.** The 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. Owns 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. 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 with the specifications of a shipper and the law; and;
- H. Possesses a certification statement, affirming that the operator whose services are being acquired meets each of the factors in paragraphs A to G and that the operator is understood to be an independent contractor and not an employee. The statement must be signed and dated by the operator supplying the service and the hiring entity. The statement must be supplied on demand to an insurance premium auditor or the board.