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Legislative Document

No. 1459

S.P. 444

In Senate, April 2, 2019

**An Act To Expand Application of the Maine Agricultural
Marketing and Bargaining Act of 1973 to Harvesters and Haulers of
Forest Products**

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Representative MARTIN of Eagle Lake and
Senators: BELLOWS of Kennebec, CARPENTER of Aroostook, DAVIS of Piscataquis, DILL
of Penobscot, DOW of Lincoln, Representatives: COLLINGS of Portland, Speaker GIDEON
of Freeport, STEWART of Presque Isle.

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

2 **Sec. 1. 13 MRSA §1774, sub-§6-A**, as enacted by PL 1971, c. 502, is amended
3 to read:

4 **6-A. Independent agricultural contractor.** "Independent agricultural contractor"
5 means a person who grows under contract, or who harvests or hauls forest products under
6 contract, as ~~his~~ the person's primary activity or as part of a general agricultural activity.

7 **Sec. 2. 13 MRSA §1953**, as enacted by PL 1973, c. 621, §1, is amended to read:

8 **§1953. Legislative findings and purpose**

9 Because agricultural products are produced by numerous individual farmers and
10 independent agricultural contractors, the marketing and bargaining position of individual
11 farmers and independent agricultural contractors will be adversely affected unless they
12 are free to join together voluntarily in cooperative organizations as authorized by law.
13 Furthermore, membership by a farmer or independent agricultural contractor in a
14 cooperative organization can only be meaningful; if a handler of agricultural products is
15 required to bargain in good faith with an agricultural cooperative organization as the
16 representative of the members of such organization who have had a previous course of
17 dealing with such handler. The purpose of this Article is to provide standards for the
18 qualification of agricultural cooperative organizations for bargaining purposes, to define
19 the mutual obligation of handlers and agricultural cooperative organizations to bargain
20 with respect to the production, sale and marketing of agricultural products and to provide
21 for the enforcement of such obligation.

22 **Sec. 3. 13 MRSA §1955, sub-§5**, as enacted by PL 1973, c. 621, §1, is amended
23 to read:

24 **5. Producer.** "Producer" means a person engaged in the production of agricultural
25 products, ~~excluding forest products~~, as a farmer, planter, rancher, ~~poultryman~~ poultry
26 farmer, ~~dairyman~~ dairy farmer, fruit, vegetable or nut grower, or independent agricultural
27 contractor as specified in section 1774, subsections 6-A and 8-A. If a producer is also a
28 handler, ~~he shall be the producer~~ is considered only a handler for the purposes of this Act.

29 **Sec. 4. 13 MRSA §1957, sub-§3, ¶D**, as amended by PL 1991, c. 116, is further
30 amended to read:

31 D. The association represents ~~51% of the~~ 10 or more producers ~~or produced at least~~
32 ~~1/2 of the volume~~ of a particular agricultural product for a specific handler involved
33 with those producers and that agricultural product during the previous 12 months, ~~not~~
34 ~~including any volume produced by the handler, its subsidiaries, agents or employees~~
35 ~~or procured by the handler from sources other than producers~~; for the purposes of this
36 article, members of ~~farmer~~ agricultural cooperatives are counted as individual ~~farmer~~
37 members; if the board has reasonable cause to question such representation, the board
38 shall require a secret ballot election to certify the ~~percentage~~ of representation; and

1 1. Expand the definition of "independent agricultural contractor" to include a person
2 who harvests or hauls forest products under contract;

3 2. Expand the legislative findings provision to include findings concerning
4 independent agricultural contractors, which include harvesters and haulers of forest
5 products; and

6 3. Include in the definition of "producer" a person engaged in the production of
7 forest products.

8 In addition, the bill sets forth the Legislature's finding that, with respect to loggers
9 and forest products haulers, the inequity of power in determining compensation and the
10 lack of opportunity to join together in bargaining over compensation can result in unfair
11 contract rates for their services and that it is in the public interest to expand application of
12 the Maine Agricultural Marketing and Bargaining Act of 1973 to include harvesters and
13 haulers of forest products.