

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

An Act To Improve Opportunity in the Maine Woods

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

Whereas, workers in the Maine woods and the wood industry in Maine face significant economic obstacles; and

Whereas, a recent study by the Office of the Attorney General of logging industry conditions in northern and eastern Maine found "clear evidence of market concentration" but was unable, due to lack of access to information, to determine whether market concentration resulted in the payment of below-market rates for services; and

Whereas, the rate-setting law designed to counteract the effects of market concentration and provide increased opportunities for workers to make a living in the Maine woods is currently having an adverse impact on those opportunities; and

Whereas, federal and state officials are beginning vigorous efforts to enforce federal and state laws related to the use of foreign labor and foreign labor certification to ensure that Maine workers have a fair opportunity to fill jobs in the Maine woods before foreign labor is brought into the country; and

Whereas, those efforts include in-person verification of equipment ownership by employers of bond workers to enforce the Maine Revised Statutes, Title 26, section 872; and

Whereas, this legislation triples the fines applicable for violations of the Maine Revised Statutes, Title 26, section 872; and

Whereas, the United States Department of Labor is undertaking a review of contractor practices to investigate allegations that contractors are not following federal law in their efforts to obtain foreign labor to work in the Maine woods and may deny or revoke authorization to use foreign labor to those contractors who are not in compliance with federal law; and

Whereas, the Maine Department of Labor is requesting that the United States Department of Labor establish rates to allow owners to obtain fair pay for equipment in the Maine woods; and

Whereas, the Governor is committed to keeping up pressure on the United States Department of Labor as well as overseeing the efforts of the Maine Department of Labor to implement these enhanced enforcement efforts for the purpose of improving economic opportunity for workers in the Maine woods; and

Whereas, changes are needed immediately to improve economic opportunity in the current logging season; and

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

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

Sec. 1. 26 MRSA §872, sub-§2, as enacted by PL 2005, c. 461, §1, is amended to read:

2. Proof of ownership required. An employer in this State who employs a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department, the operator of equipment subject to this section shall provide proof of ownership.

Sec. 2. 26 MRSA §872, sub-§5, as enacted by PL 2005, c. 461, §1, is amended to read:

5. Violation. An employer who violates this section commits a civil violation for which a fine of not less than ~~\$1,000~~\$3,000 and not more than ~~\$5,000~~\$15,000 per violation may be adjudged.

Sec. 3. 26 MRSA §872, sub-§6 is enacted to read:

6. Assistance. The Department of Conservation shall provide interagency support and field information to assist the Department of Labor in enforcing this section.

Sec. 4. 26 MRSA §931-B, as enacted by PL 2003, c. 670, §2, is repealed.

Sec. 5. 26 MRSA c. 18, as amended, is repealed.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Labor Relations Board 0160

Initiative: Reduces funds for the per diem and related costs of the State Board of Arbitration and Conciliation due to the repeal of the rate determination process for forest products hauling and harvesting services.

GENERAL FUND	2009-10	2010-11
All Other	(\$3,300)	(\$3,300)
GENERAL FUND TOTAL	(\$3,300)	(\$3,300)

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
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HP1049, LD 1492, item 1, 124th Maine State Legislature
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Personal Services	(\$12,500)	(\$12,500)
All Other	(\$5,860)	(\$5,860)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$18,360)	(\$18,360)

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

SUMMARY

This bill triples the penalty for violation of the law that requires foreign bond workers in logging occupations to use equipment owned by their employer and requires that proof of ownership be carried in the equipment and be shown to enforcement officials. It requires the Department of Conservation to provide assistance to the Department of Labor in enforcing the law. It also repeals the law establishing a rate-setting process for the services of contractors who work for large landowners.

FISCAL NOTE REQUIRED (See attached)