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An Act To Enhance the Safety of Forestry Workers and Contracted Farm Workers

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

Whereas, this bill provides protections for forestry workers and contracted farm workers; and

Whereas, such protections need to take effect as soon as possible; 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 §641, as enacted by PL 2003, c. 616, §1, is amended to read:

§ 641. Rule of construction

This subchapter must be liberally construed in light of the purposes of the law to ensure a safe working environment and safe transportation for forestry workers and migrant and seasonal farm workers and to prevent unfair competition in the marketplace by businesses whose practices would undermine safety and other employment standards.

Sec. 2. 26 MRSA §642, as enacted by PL 2003, c. 616, §1, is amended to read:

§ 642. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Bureau. "Bureau" means the Department of Labor, Bureau of Labor Standards.

2. Code of Federal Regulations. "Code of Federal Regulations" means the Code of Federal Regulations as of January 1, ~~2003~~2008.

3. Employer. "Employer" means ~~a person or entity that suffers or permits any forestry worker to work.:~~

A. With regard to a forestry worker, a person or entity that suffers or permits any forestry worker to work; and

B. With regard to a migrant and seasonal farm worker, a farm labor contractor.

3-A. Farm labor contractor. "Farm labor contractor" means a person or entity that employs migrant and seasonal farm workers and that is required to register with the United States Department of Labor under the federal Migrant and Seasonal Agricultural Worker Protection Act.

4. Forestry worker. "Forestry worker" or "worker" means a person employed on a temporary or seasonal basis to perform reforestation activities, including, but not limited to, precommercial thinning, tree planting and brush clearing.

5. Migrant and seasonal farm worker. "Migrant and seasonal farm worker" means a person employed by a farm labor contractor on a temporary or seasonal basis to perform farm labor.

6. Worker. "Worker" means a forestry worker or migrant and seasonal farm worker.

Sec. 3. 26 MRSA §643, sub-§1, as enacted by PL 2003, c. 616, §1, is amended to read:

1. Requirement. An employer shall provide safe transportation for forestry workers between the workers' lodgings and work sites each day at no cost to the workers.

A. A vehicle used to transport workers must meet the standards set forth in 29 Code of Federal Regulations, Section 500.105, regardless of the number of miles traveled or the type of vehicle used, and must include a working seat belt for each worker being transported. Any vehicle used to transport forestry workers may not have any apparatus attached to the rear of the vehicle that interferes with the operation of the rear door. Equipment or any other materials that interfere with the operation of any doors or windows may not be attached to or stored in the vehicle. The number of occupants in any vehicle, other than a bus, may not exceed ~~11~~ the manufacturer's design specifications except in no instance may it exceed 12 at any time. In the case of a 15-passenger van, compliance with this standard must be achieved by removal of the seating immediately behind the rear axle, resulting in the number of passengers in the vehicle at any one time not exceeding 11. Attachments are not allowed on the roofs of vans for the purpose of carrying gear.

B. Any person driving a vehicle used to transport workers must meet the driver qualifications and must follow the standards for driving set forth in 29 Code of Federal Regulations, Section 500.105.

C. Each vehicle used to transport workers must be equipped with a first aid kit consistent with 29 Code of Federal Regulations, section 1910.266, Appendix A and communications equipment capable of providing the most immediate access to emergency medical services. A vehicle equipped with such equipment and a driver must be available at or near the work site at all times during the work day. Emergency action plans, written in easily understandable English and in the language of the forestry worker crews, must be developed and maintained for each job site. Plans must include information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who can not be moved.

D. An employer must make reasonable efforts to limit the driving hours of any one driver in a day and to reduce driver fatigue generally. Hours of operation must also comply with the limitations set forth in 29 Code of Federal Regulations, Section 500.105. Except in an emergency, a worker who engages in reforestation or agricultural labor activities may not operate a vehicle more than 2 hours per day.

For purposes of this paragraph, "agricultural labor" has the same meaning as in section 1043, subsection 1.

E. A vehicle used to transport workers must be insured for at least the same minimum liability insurance as is required by the State.

F. Each employer shall provide to each worker and to the Department of Labor a copy of off-road driving safety standards consistent with those promoted in relevant safe driver training courses.

G. Each contract regarding or resulting in the employment of any forestry worker must include a provision requiring the contractor who employs forestry workers to abide by this subchapter.

Sec. 4. 26 MRSA §643-A is enacted to read:

§ 643-A. First aid requirements

An employer must comply with the standards for first aid set forth in 29 Code of Federal Regulations, Section 1910.151 (2008).

Sec. 5. 26 MRSA §643-B is enacted to read:

§ 643-B. Farm labor contractor registration

Each farm labor contractor employing migrant and seasonal farm workers shall file a copy of its federal registration under the federal Migrant and Seasonal Agricultural Worker Protection Act with the bureau. The filing must include in-state contact information for the farm labor contractor or the farm labor contractor's representative.

Sec. 6. 26 MRSA §644, first ¶, as enacted by PL 2003, c. 616, §1, is amended to read:

An employer or other person may not intimidate, threaten, restrain, coerce, blacklist, discharge, fail to recruit, fail to rehire or in any manner discriminate or retaliate against a forestry worker because the worker has:

Sec. 7. 26 MRSA §644, sub-§3, as enacted by PL 2003, c. 616, §1, is amended to read:

3. Discussions. Discussed any matter that is a subject of or is related in any way to this subchapter, or any other lawful matter, with any other person, including, but not limited to, that forestry worker's employer or the employer's agent or employee; or

Sec. 8. 26 MRSA §645, as enacted by PL 2003, c. 616, §1, is amended to read:

§ 645. Waiver of rights prohibited

Any agreement by a forestry worker purporting to waive or modify any of the worker's rights under this subchapter is void as contrary to public policy.

Sec. 9. 26 MRSA §646, sub-§1, as enacted by PL 2003, c. 616, §1, is amended to read:

1. Joint and several liability. If more than one person or entity is an employer of the same forestry worker or group of workers, each such person or entity is jointly and severally liable for all violations of this subchapter.

Sec. 10. 26 MRSA §646, sub-§2, as enacted by PL 2003, c. 616, §1, is amended to read:

2. Enforcement by bureau. The bureau may inspect vehicles subject to this subchapter and used to transport forestry workers and may enforce compliance with this subchapter in accordance with this section.

A. A duly designated officer of the bureau may enter into any structure or upon any real property in or on which a vehicle subject to this subchapter and used to transport forestry workers is found in accordance with the process established in section 587 in order to determine compliance with this subchapter and any rules adopted to implement this subchapter.

B. Upon the written request of the bureau, the Department of Transportation and the Department of Public Safety shall provide any technical services that may be required by the bureau to assist with inspections and enforcement of this subchapter.

Sec. 11. 26 MRSA §872, sub-§1, as enacted by PL 2005, c. 461, §1, is amended to read:

1. Definition. For the purposes of this section, "bond worker" means a person who has been described under 8 United States Code, Section 1101(a)(15)(H)(ii)(b) and granted permission to work temporarily in the United States.

Sec. 12. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 26, chapter 7, subchapter 2-A, in the subchapter headnote, the words "employment standards in the forestry industry" are amended to read "employment standards in the forestry industry and farming" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

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

Effective May 26, 2009.