

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 427

H. P. 309

House of Representatives, February 7, 1979

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Lisbon.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Relating to Revisions of the Occupational Safety and Health Statute and to Conform the Occupational Safety and Health Rules and Regulations to Federal Requirements.

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

Sec. 1. 26 MRSA § 45, first ¶, as repealed and replaced by PL 1975, c. 519, § 6, is amended to read:

~~The workplace, equipment, tools, working conditions and conditions of a construction activity provided by the State, state agencies, counties, municipal corporations, school districts and other public corporations or political subdivisions shall be reasonably safe and not in such condition as to be hazardous to the employees engaged therein. If, upon inspection, the director or any authorized agent of the bureau shall find that an employer has violated the requirements of this section, or any standard, rule or order promulgated pursuant to section 565, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provision of the standard, rules, regulations or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation.~~

Sec. 2. 26 MRSA § 50, last ¶, as enacted by PL 1975, c. 519, § 10, is repealed as follows:

~~No person shall discharge or in any manner discriminate against an employee because such person has filed any complaint concerning alleged violations of occupational safety or health standards or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by such employee on behalf of himself or others of any right granted him by this chapter.~~

Sec. 3. 26 MRSA § 570 is enacted to read:

§ 570. Discrimination

No person shall discharge or in any manner discriminate against an employee because that person has filed any complaint concerning alleged violations of occupational safety or health standards or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by the employee on behalf of himself or others of any right granted him by this chapter.

Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after the alleged violation occurs, file a complaint with the director, alleging discrimination. Upon receipt of the complaint, the director shall conduct an investigation as he deems appropriate. If upon investigation the director determines that the provisions of this chapter have been violated, he shall bring an action in the Superior Court in the county in which the alleged violation occurred. In any action, the Superior Court shall have jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to his former position with back pay.

Within 90 days of the receipt of a complaint filed under this section, the director shall notify the complainant of his determination.

STATEMENT OF FACT

The term "reasonably safe," etc., is no longer applicable and because of its vagueness it is unenforceable. This section requires that the rules adopted under section 565 shall be complied with.

The last paragraph to be repealed in Title 26, chapter 3, section 50, shall be incorporated into a new section of Title 26, chapter 6, to simplify and set forth certain procedures to be followed in cases where an individual feels he has been discriminated against. At the present time, there is no law clarifying the procedure for action in a case of discrimination under chapter 6.