

MAINE STATE LEGISLATURE

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(Emergency)
(New Draft of S.P. 866, L.D. 2255)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2531

S.P. 956

In Senate, March 16, 1988

Reported by the Majority for the Committee on Labor and printed under Joint Rule 2. Original Bill sponsored by Senator DUTREMBLE of York. Cosponsored by: Representative MCHENRY of Madawaska, Representative TAMMARO of Baileyville, and Senator ERWIN of Oxford.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

AN ACT to Promote the Prompt and Peaceful
Settlement of Labor Disputes.

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4 Emergency preamble. Whereas, Acts of the
5 Legislature do not become effective until 90 days
6 after adjournment unless enacted as emergencies; and

7 Whereas, the employment of professional
8 strikebreakers endangers the order and public peace of
9 the State and the sense of harmony in the State's

1 communities and creates an atmosphere of tension,
2 particularly in areas affected by labor disputes; and

3 Whereas, the mass replacement of striking workers
4 by professional strikebreaking firms may provoke
5 striking workers and encourage strike-related violence
6 on a large scale, potentially beyond the control of
7 the limited resources of local law enforcement
8 agencies; and

9 Whereas, the mass replacement of striking workers
10 can result in a large number of untrained replacements
11 or replacements who are unfamiliar with the specific
12 worksite, machinery or potentially hazardous
13 substances with which they are working, which may pose
14 a substantial risk of harm to other workers and the
15 general public; and

16 Whereas, this bill is urgently needed to clarify
17 and improve existing law and to promote the peace and
18 good order of the State; and

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

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

27 Sec. 1. 26 MRS A §852-A is enacted to read:

28 §852-A. Professional strikebreaking prohibited

29 1. Definitions. As used in this section, the
30 following terms have the following meanings.

31 A. "Strikebreaking activity" means the offering
32 or supplying of persons to perform the tasks
33 normally assigned to employees involved in a labor
34 dispute, strike or lockout.

35 2. Professional strikebreaking activity

1 prohibited. No person, partnership, union, agency,
2 firm, corporation or other legal entity may perform
3 strikebreaking activities if that entity has
4 contracted on at least 3 occasions within the previous
5 5 years to supply 100 or more employees to an employer
6 involved in a labor dispute to perform tasks normally
7 assigned to employees involved in the labor dispute.

8 Sec. 2. 26 MRSa §855-A is enacted to read:

9 §855-A. Civil action; injunctive or other relief

10 Any person, corporation or labor organization with
11 judicial standing may bring a civil action for
12 injunctive or other relief to enforce this subchapter.

13 Sec. 3. 26 MRSa §856, as enacted by PL 1965, c.
14 189, is repealed.

15 Sec. 4. 26 MRSa §857 is enacted to read:

16 §857. Exemptions

17 This subchapter does not apply to the employment
18 of:

19 1. Security guards. Security guards during a
20 labor dispute if the security guards perform security
21 guard duties only;

22 2. Special maintenance workers. Special
23 maintenance workers employed by the seller or
24 manufacturer of the equipment maintained or persons
25 who have performed the maintenance work on the
26 equipment prior to the beginning of the labor dispute,
27 strike or lockout; and

28 3. Permanent employees. Permanent employees
29 involved in the labor dispute regardless of their
30 usual occupation or duty station.

31 Sec. 5. Application. This Act shall apply only
32 to activity prohibited by the Act which occurs on or
33 after the effective date of this Act.

1 Emergency clause. In view of the emergency
2 cited in the preamble, this Act shall take effect when
3 approved.

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STATEMENT OF FACT

5 This new draft replaces the provisions of the
6 original bill defining a professional strikebreaker.
7 Under the new draft, a professional strikebreaker is
8 defined as a corporation or other legal entity that
9 has, on at least 3 occasions in the previous 5 years,
10 contracted to supply 100 or more employees to an
11 employer to take the place of workers involved in a
12 labor dispute. This definition ensures that firms
13 that may on occasion supply temporary help to
14 employers involved in a labor dispute will not be
15 included under the new draft's prohibition on
16 strikebreaking activity. The new draft focuses on
17 those firms that engage in a deliberate pattern of
18 supplying replacement workers on a large scale. Such
19 a sudden replacement of large numbers of striking
20 workers threatens the peace, order and safety of
21 affected communities in a substantially different
22 manner than a gradual replacement on a more modest
23 scale. The new draft prohibits firms that have
24 established a history of engaging in such hazardous
25 practices from supplying replacement workers to
26 employers involved in a labor dispute.

27 The new draft also permits parties with judicial
28 standing to seek civil remedies and retains the
29 exemptions for security guards, special maintenance
30 workers and permanent employees.

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