



114th MAINE LEGISLATURE

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Legislative Document

No. 404

H.P. 292

House of Representatives, February 23, 1989

Reference to the Committee on Labor suggested and ordered printed.

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EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska. Cosponsored by President PRAY of Penobscot, Speaker MARTIN of Eagle Lake and Senator ESTES of York.

STATE OF MAINE

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

An Act to Reduce the Potential for Violence During Labor Disputes.

1	Be it enacted by the People of the State of Maine as follows:
3	Sec. 1. 26 MRSA §852-A is enacted to read:
5	<u>§852-A. Professional strikebreaking prohibited</u>
7	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the
9	following meanings.
11 13	A. "Strikebreaking activity" means the offering or supplying of persons to perform the tasks normally assigned to employees involved in a labor dispute, strike or lockout.
10	to emproyees involved in a rabor dispute, seriat or recouct
15	2. Professional strikebreaking activity prohibited. No person, partnership, union, agency, firm, corporation or other
17	<u>legal entity may perform strikebreaking activities if that entity</u> has contracted, on at least 3 occasions within the previous 5
19	<u>years, to supply 100 or more employees to an employer involved in</u> <u>a labor dispute to perform tasks normally assigned to employees</u>
21	involved in the labor dispute.
23	Sec. 2. 26 MRSA §855-A is enacted to read:
25	<u>§855-A. Civil action; injunctive or other relief</u>
27	Any person, corporation or labor organization with judicial standing may bring a civil action for injunctive or other relief
29	to enforce this subchapter.
31	Sec. 3. 26 MRSA §856, as enacted by PL 1965, c. 189, is repealed.
33	Sec. 4. 26 MRSA §857 is enacted to read:
35	<u>\$857. Exemptions</u>
37	This subchapter does not apply to the employment of:
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41	<u>1. Security guards.</u> Security guards during a labor dispute if the security guards perform security guard duties only;
43	2. Special maintenance workers. Special maintenance workers employed by the seller or manufacturer of the equipment
45	maintained or persons who have performed the maintenance work on the equipment prior to the beginning of the labor dispute, strike
47	or lockout; and
49	<u>3. Permanent employees. Permanent employees involved in the labor dispute regardless of their usual occupation or duty</u>
51	station.

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Sec. 5. 1 Statutory referendum procedure; submission at statewide election; form of question; effective date. This Act 3 shall be submitted to the legal voters of the State of Maine at a statewide election to be held on the Tuesday following the first 5 Monday of November following passage of this Act. The city aldermen, town selectmen and plantation assessors of this State 7 shall notify the inhabitants of their respective cities, towns and plantations to meet, in the manner prescribed by law for 9 holding a statewide election, to vote on the acceptance or rejection of this Act by voting on the following question:

"Shall the State prohibit an individual or corporation from supplying replacement workers during a labor dispute if that individual or corporation has, on at least 3 separate occasions in the previous 5 years, supplied 100 or more employees to replace workers involved in labor disputes?"

The legal voters of each city, town and plantation shall vote by ballot on this question, and shall designate their choice by a 19 cross or check mark placed within a corresponding square below the word "Yes" or "No." The ballots shall be received, sorted, 21 counted and declared in open ward, town and plantation meetings 23 and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns and, if it appears that a majority of the legal 25 voters are in favor of the Act, the Governor shall proclaim that fact without delay, and the Act shall become effective 30 days 27 after the date of the proclamation.

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The Secretary of State shall prepare and furnish to each city, 31 town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

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STATEMENT OF FACT

This bill prohibits professional strikebreaking activity that creates the potential for substantial violence on a wide 39 The bill defines a professional strikebreaker as any scale. 41 corporation or other legal entity that has, on at least 3 occasions in the previous 5 years, contracted to supply 100 or 43 more employees to an employer to take the place of workers involved in a labor dispute. This definition ensures that firms that may on occasion supply temporary help to employers involved 45 in a labor dispute will not be included under the bill's 47 prohibition of strikebreaking activity.

The bill focuses on those firms that engage in a deliberate pattern of supplying replacement workers on a large scale. Such
a sudden replacement of large numbers of striking workers threatens the peace, order and safety of affected communities in

a substantially different manner than a gradual replacement on a 1 more modest scale. The mass replacement of striking workers 3 encourages strike-related violence on a large scale, potentially beyond the limited resources of local law enforcement officers. 5 Such mass replacements can also result in a large number of untrained replacement workers, whose employment is made possible by the rapid resumption of business due to the availability of 7 skilled replacement workers from a professional strikebreaker, or 9 replacements who are unfamiliar with the specific worksite, machinery or potentially hazardous substances with which they are working, which may pose a substantial risk of harm to other 11 workers and the general public. This bill prohibits firms that 13 have established a history of engaging in such hazardous practices from supplying replacement workers to employers 15 involved in a labor dispute.