

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

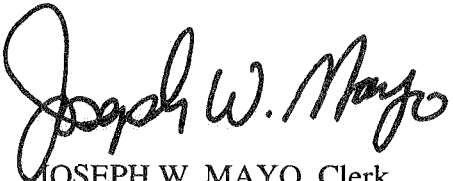
No. 596

H.P. 446

House of Representatives, January 30, 1997

An Act to Require the Department of Labor to Ensure That Housing Provided as an Incident of Employment by Agricultural Employers Meets Minimum Standards of Habitability.

Reference to the Committee on Labor suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LEMAIRE of Lewiston.
Cosponsored by Senator RAND of Cumberland and
Representatives: BERRY of Livermore, BRENNAN of Portland, HATCH of Skowhegan,
SAMSON of Jay, SAXL of Portland, SHIAH of Bowdoinham, VOLENIK of Brooklin,
Senator: MICHAUD of Penobscot.

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

4 **Sec. 1. 26 MRSA c. 6, sub-c. III is enacted to read:**

6 **SUBCHAPTER III**

8 **HOUSING STANDARDS FOR AGRICULTURAL LABOR**

10 **§585. Definitions**

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

14 1. **Agricultural labor.** "Agricultural labor" means agricultural labor as defined in the Employment Security Law, chapter 13.

18 2. **Owner.** An agricultural employer is an "owner" of a housing facility or real property if that employer has a legal or equitable interest in the housing facility or real property.

22 3. **Control.** An agricultural employer is in "control" of a housing facility or real property, regardless of the location of that facility, if the employer is in charge of or has the power or authority to oversee, manage, superintend or administer the housing facility or real property either personally or through an authorized agent or employee, irrespective of whether compensation is paid for engaging in any of those capacities.

30 4. **Facility.** "Facility" means a structure, trailer or vehicle, or 2 or more contiguous or grouped structures, trailers or vehicles, together with the land appurtenant.

34 **§586. Agricultural labor housing standards**

36 The bureau shall adopt rules for the protection of the health, safety and welfare of agricultural laborers and their families who occupy housing provided by, owned by or controlled by their employers. These rules apply only to housing facilities of employers of agricultural labor who provide housing to 75 or more workers for more than 180 days a year. The rules must include standards for safe construction and maintenance of the housing facilities, sanitary conditions, toilets and personal hygiene facilities, minimum living space per occupant, bedding, food storage and preparation, insect and rodent control, garbage, heating equipment, lighting and other matters the department determines appropriate or necessary to protect the life and health of the occupants. The rules adopted under this subchapter must be at least as stringent as the regulations on housing promulgated by the United States Department of

2 Labor, Occupational Safety and Health Administration under the
3 federal Migrant and Seasonal Agricultural Worker Protection Act,
4 29 United States Code, Sections 1801 et seq. Rules adopted
5 pursuant to this subchapter are routine technical rules as
6 defined in Title 5, chapter 375, subchapter II-A.

7 **§587. Inspections**

8 The bureau may inspect housing facilities subject to this
9 subchapter in accordance with this section.

10 1. Right of entry. Without an administrative inspection
11 warrant, any duly designated officer of the bureau may enter a
12 housing facility subject to this chapter at any reasonable time
13 in order to determine compliance with this chapter and any rules
14 in force pursuant to this chapter. No such entry and inspection
15 may be made without the permission of one or more occupants of
16 the facility unless a search warrant is obtained authorizing
17 entry and inspection. If the housing facility is unoccupied,
18 permission of the owner is required before entry and inspection
19 unless a search warrant is obtained.

20 2. Technical assistance. Upon the written request of the
21 bureau, the Department of Human Services, Division of Health
22 Engineering shall provide any technical services that may be
23 required by the bureau to assist with inspections and enforcement
24 of this subchapter.

25 3. Municipal inspections. The bureau may rely on
26 inspections performed by the municipality only to the extent that
27 the municipality has adopted a rule, regulation, ordinance or
28 other code of standard that is at least as stringent as the
29 bureau's rule on that subject. The bureau may rely on municipal
30 inspections only if the inspector is properly licensed or
31 certified by the State to make such inspections.

32 **§588. Penalties and enforcement**

33 Actions to enforce this subchapter may be brought in
34 accordance with this section.

35 1. Civil violation. An employer who violates this
36 subchapter or the rules adopted under this subchapter commits a
37 civil violation for which a forfeiture of not less than \$100 nor
38 more than \$1,000 for each violation, payable to the State, may be
39 adjudged. Each day that the violation remains uncorrected
40 following notice to the employer may be counted as a separate
41 offense. The bureau may direct an employer to correct any
42 violations in a manner and within a time frame that the bureau
43 determines appropriate to ensure compliance with the rules or to
44 ensure compliance with the rules or to

2 protect the public health. Failure to correct violations within
4 a time frame established by the bureau constitutes a separate
6 finable offense. In the event of any violation of this
8 subchapter, the Attorney General may seek to enjoin further
10 violation, in addition to any other remedy.

12 2. Private right of action. A civil action may be brought
14 against an employer of agricultural labor by any person aggrieved
16 by a violation of this chapter or rules adopted under this
18 subchapter. If the court finds that the employer violated this
20 subchapter or a rule adopted under this subchapter, it may award
22 damages of not less than \$100 nor more than \$500 per plaintiff
24 per violation, except that multiple infractions of a single rule
26 under this subchapter constitute only one violation for the
28 purposes of determining the amount of damages due a single
30 plaintiff. In determining the amount of damages to be awarded,
32 the court is authorized to consider whether an attempt was made
34 to resolve the issues in dispute before resort to litigation.

36 §589. Exemption

38 This subchapter does not apply to a person who, in the
40 ordinary course of that person's business, regularly provides
42 housing to the general public on a commercial basis and who
44 provides to any agricultural laborer similar housing on the same
46 or comparable terms and conditions as provided to the general
48 public. Agricultural labor housing may not be brought within
50 this exception simply by offering lodging to the general public.

52 SUMMARY

54 This bill requires the Department of Labor, Bureau of Labor
56 Standards to adopt rules regarding the condition of housing
58 provided to workers by employers of agricultural labor who
60 provide housing to 75 or more workers for more than 180 days a
62 year. The rules must be at least as stringent as the regulations
64 on housing promulgated by the federal Department of Labor,
66 Occupational Safety and Health Administration under the federal
68 Migrant and Seasonal Agricultural Worker Protection Act. An
70 action to enforce the standards may be brought by either the
72 State or a private party.