

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 886

H.P. 660

House of Representatives, February 19, 2019

**An Act To Protect Volunteer Search and Rescuers Certified by the  
Maine Association for Search and Rescue from Adverse  
Employment Actions**

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Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative BAILEY of Saco.  
Cosponsored by Senator BELLOWS of Kennebec and  
Representatives: BRADSTREET of Vassalboro, FAY of Raymond, MARTIN of Eagle Lake,  
NADEAU of Winslow, SYLVESTER of Portland, Senators: DAVIS of Piscataquis,  
LAWRENCE of York.

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

2 **Sec. 1. 26 MRSA c. 7, sub-c. 4-D** is enacted to read:

3 **SUBCHAPTER 4-D**

4 **VOLUNTEER SEARCH AND RESCUER; ABSENCE FROM WORK**

5 **§810. Absence for emergency response**

6 **1. Definitions.** As used in this subchapter, unless the context otherwise indicates,  
7 the following terms have the following meanings.

8 A. "Employer" has the same meaning as in section 809, subsection 1, paragraph A.

9 B. "Volunteer search and rescuer" means a person who is certified in search and  
10 rescue practices and procedures by a nonprofit search and rescue training  
11 organization recognized by the Department of Inland Fisheries and Wildlife, Bureau  
12 of Warden Service.

13 **2. Prohibition against discharge or disciplinary action.** An employer may not  
14 discharge or take any other disciplinary action against an employee who is a volunteer  
15 search and rescuer because of the employee's failure to report for work at the beginning  
16 of the employee's regular working hours if the employee failed to do so because the  
17 employee was responding to a search and rescue operation requested by a law  
18 enforcement agency in the employee's capacity as a volunteer search and rescuer and the  
19 employee reported for work as soon as reasonably possible after being released from the  
20 search and rescue operation. An employer may charge the lost time against the  
21 employee's regular pay or against the employee's available leave time. This subsection  
22 does not apply to the absence of an employee if the employee has been designated as  
23 essential by the employer pursuant to subsection 6.

24 **3. Notification; verification.** If time permits, when an employee is responding as a  
25 volunteer search and rescuer to a search and rescue operation, the employee, the  
26 employee's designee or the search and rescue operation supervisor shall notify the  
27 employer that the employee will not report to work at the appointed time. At the request  
28 of an employer, an employee losing work time as provided in subsection 2 shall provide  
29 the employer with a statement from the official in charge of the recognized nonprofit  
30 search and rescue training organization, the official's designee or a law enforcement  
31 official responsible for the search and rescue operation stating that the employee was  
32 responding to a search and rescue operation and the time of release from the operation.

33 **4. Enforcement; penalty for violation.** If an employer has violated subsection 2,  
34 the employee may bring an action in Superior Court in the county in which the employee  
35 resides or in the county in which the employer's place of business is located. The action  
36 must be brought within one year of the date of the alleged violation. If the court finds that  
37 the employer violated subsection 2, and if the employee so requests, the court shall order  
38 the employer to reinstate the employee in the employee's former position without  
39 reduction of pay, seniority or other benefits. The court also shall order any other

1 appropriate remedy necessary to return the employee to the position the employee would  
2 have been in had the employer not violated subsection 2, including payment of back pay  
3 and reinstatement of any other benefits lost during the period in which the discharge or  
4 disciplinary action was in effect.

5 **5. Impact on individual agreements.** This section does not apply if the employer  
6 and the employee have entered into a written agreement, signed by the employer and the  
7 employee, that governs procedures to be followed when the employee is called to respond  
8 to a search and rescue operation as a volunteer search and rescuer. This subsection  
9 applies only if:

10 A. The recognized nonprofit search and rescue training organization in charge of  
11 calling out volunteer search and rescuers has a written policy that:

12 (1) Specifies the circumstances under which volunteer search and rescuers will  
13 be ordered to remain at a search and rescue operation; and

14 (2) Affirms that volunteer search and rescuers will be released as soon as  
15 practicable; and

16 B. The employee presents a copy of the policy described in paragraph A to the  
17 employer upon notifying the employer of the employee's status as a volunteer search  
18 and rescuer.

19 **6. Designation as essential.** Upon receiving notice of an employee's volunteer  
20 search and rescuer status, an employer may designate the employee essential to the  
21 employer's operations when the absence of the employee would cause disruption of the  
22 employer's business.

## 23 **SUMMARY**

24 This bill provides the same protections to volunteer search and rescuers for absences  
25 from work in responding to search and rescue operations requested by a law enforcement  
26 agency as volunteer firefighters receive for absences from work in responding to  
27 emergencies. Under this bill, a volunteer search and rescuer is a person who has been  
28 certified in search and rescue practices and procedures by a nonprofit search and rescue  
29 training organization recognized by the Department of Inland Fisheries and Wildlife,  
30 Bureau of Warden Service.