

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 588

S.P. 272

In Senate, February 25, 2025

An Act to Enact the Agricultural Employees Concerted Activity Protection Act

Received by the Secretary of the Senate on February 19, 2025. Referred to the Committee on Labor pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland.
Cosponsored by Representative ROEDER of Bangor and
Senator: TIPPING of Penobscot.

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

2 **Sec. 1. 26 MRSA c. 51** is enacted to read:

3 **CHAPTER 51**

4 **AGRICULTURAL EMPLOYEES CONCERTED ACTIVITY PROTECTION ACT**

5 **§3901. Short title; purposes**

6 This chapter may be known and cited as "the Agricultural Employees Concerted
7 Activity Protection Act."

8 It is declared to be the public policy of this State and it is the purpose of this chapter to
9 promote the improvement of the relationship between agricultural employers and their
10 agricultural employees by providing a uniform basis for recognizing the right of
11 agricultural employees to engage in the concerted activity protected by this chapter. It is
12 also the public policy of this State and the purpose of this chapter to encourage cooperation
13 and the voluntary resolution of issues between agricultural employers and their employees,
14 to limit industrial strife, to promote stability in the farm labor force and to improve the
15 economic status of workers and businesses.

16 **§3902. Definitions**

17 As used in this chapter, unless the context otherwise indicates, the following terms
18 have the following meanings.

19 **1. Agricultural employee.** "Agricultural employee" means a person engaged in
20 agriculture and also means a person engaged in the canning; processing; preserving;
21 freezing; drying; marketing; storing; packing for shipment; or distributing of:

22 A. Agricultural produce;

23 B. Meat and fish products; and

24 C. Perishable foods.

25 This subsection may not be construed to include a person other than those employees
26 excluded from the coverage under the National Labor Relations Act, as amended, as
27 agricultural laborers, pursuant to 29 United States Code, Section 152(3). "Agricultural
28 employee" includes any person whose work has ceased as a consequence of, in connection
29 with or because of any prohibited act under section 3904. "Agricultural employee" includes
30 supervisors but does not include any higher-level managers or those employees whose
31 duties necessarily imply a confidential relationship to the agricultural employer.

32 **2. Agricultural employer.** "Agricultural employer" means a person or entity that
33 directly or indirectly engages the services or suffers or permits the work of an agricultural
34 employee and includes a person acting on behalf of an agricultural employer directly or
35 indirectly and a person or entity exercising control over the terms and conditions of
36 employment.

37 **3. Agriculture.** "Agriculture" means farming in all its branches and includes but is
38 not limited to the cultivation and tillage of the soil; dairying; the production, cultivation,
39 growing and harvesting of any agricultural or horticultural commodities, including

1 commodities defined as agricultural commodities in 12 United States Code, Section
2 1141j(f) in effect on May 22, 2008; the raising of livestock, bees, fur-bearing animals or
3 poultry; and any practices, including any forestry or lumbering operations, performed by a
4 farmer or on a farm incidental to or in conjunction with farming operations, including
5 preparation for market and delivery to storage, to market or to carriers for transportation to
6 market.

7 **4. Board.** "Board" means the Maine Labor Relations Board as established in section
8 968, subsection 1.

9 **5. Concerted activity.** "Concerted activity" means activity by an employee or group
10 of employees to bring about change in a workplace.

11 **6. Executive director.** "Executive director" means the Executive Director of the
12 Maine Labor Relations Board as appointed in section 968, subsection 2.

13 **§3903. Right of agricultural employees to engage in concerted activity**

14 **1. Right to engage in concerted activity.** An agricultural employee has the right to
15 engage in concerted activity for the purpose of mutual aid or protection, including, but not
16 limited to:

17 A. Conferring with another agricultural employee with regard to wages, working
18 conditions, terms of employment or other matters related to employment;

19 B. Conferring, or attempting to confer, with the agricultural employee's agricultural
20 employer, or an agent or representative of that agricultural employer, with regard to
21 wages, working conditions, terms of employment or other matters related to
22 employment;

23 C. Conferring with 3rd parties, including but not limited to representatives of
24 organizations that provide social, economic, health care, legal, educational or other
25 services to agricultural employees; employees of any local, state or federal
26 governmental unit or agency; and employees of any press or media entity;

27 D. Publicizing complaints about wages, working conditions, terms of employment or
28 other matters related to the agricultural employee's employment in a lawful manner;
29 and

30 E. Taking action to further or protect the rights of an agricultural employee under this
31 chapter or to file or initiate, testify about, participate in the investigation of or support
32 in any way a complaint about a violation of this chapter by an agricultural employer.

33 **2. Right to refrain.** An agricultural employee may not be compelled to engage in
34 concerted activity.

35 **§3904. Prohibited acts of agricultural employers and agricultural employees**

36 **1. Prohibited acts of agricultural employers.** An agricultural employer or a
37 representative or agent of the agricultural employer may not:

38 A. Interfere with, restrain, surveil, interrogate or coerce an agricultural employee with
39 regard to engaging in an activity described in section 3903; or

40 B. Discharge, retaliate against, discipline or otherwise discriminate against an
41 agricultural employee because that agricultural employee has engaged in an activity
42 described in section 3903.

1 **2. Prohibited acts of agricultural employees.** An agricultural employee or a
2 representative or agent of an agricultural employee may not:

3 **A.** Interfere with, restrain or coerce an agricultural employee with regard to engaging
4 in or refraining from an activity described in section 3903; or

5 **B.** Cause or attempt to cause an agricultural employer to pay or deliver, or agree to pay
6 or deliver, money or any other thing of value for services not performed or not to be
7 performed.

8 **3. Violation.** The board shall process any violation of this section in the manner
9 provided in section 3906.

10 **§3905. Prevention of prohibited acts**

11 **1. Prevention of prohibited acts; board powers.** The board may prevent an
12 agricultural employer, agricultural employee or other person from engaging in a prohibited
13 act under section 3904 in accordance with this section.

14 **2. Complaints.** An agricultural employer or an agricultural employee that believes
15 that an agricultural employer, agricultural employee or any other person has engaged in or
16 is engaging in a prohibited act under section 3904 may file a complaint with the executive
17 director stating the charges. The complaint may not be filed with the executive director
18 until the complaining party has served a copy of the complaint upon the party named in the
19 complaint. On receipt of a complaint, the executive director or the executive director's
20 designee shall review the complaint to determine whether the facts as alleged constitute a
21 prohibited act under section 3904. If it is determined that the facts do not, as a matter of
22 law, constitute a violation of this chapter, the complaint must be dismissed by the executive
23 director, subject to review by the board. If the executive director or the board determines
24 that a formal hearing is necessary, the executive director must serve upon the parties to the
25 complaint a notice of the prehearing conference and of the hearing before the board. The
26 notice must include the time and place of hearing for the prehearing conference or the
27 hearing, as appropriate. A hearing may not be held based upon an alleged prohibited act
28 occurring more than 6 months before the filing of the complaint with the executive director.
29 The party named in the complaint has the right to file a written answer to the complaint and
30 to appear in person or by other means and give testimony at the place and time fixed for
31 the hearing. In the discretion of the board, any other person or organization may be allowed
32 to intervene in the proceeding and to present testimony. This subsection does not restrict
33 the right of the board to require the executive director or the executive director's designee
34 to hold a prehearing conference on any prohibited act complaint prior to the hearing before
35 the board and to take an action, including dismissal, to attempt to resolve disagreements
36 between the parties or to recommend an order to the board, when the executive director
37 determines appropriate, subject to review by the board.

38 **3. Cease and desist order.** If after hearing and argument and upon a preponderance
39 of the evidence received the board is of the opinion that a party named in the complaint has
40 engaged in or is engaging in a prohibited act under section 3904, the board shall state in
41 writing its findings of fact and the reasons for its conclusions and issue and cause to be
42 served upon that party an order requiring the party to cease and desist from the prohibited
43 act and to take affirmative action, including reinstatement of agricultural employees with
44 or without back pay and making agricultural employees whole for the loss of pay resulting
45 from the agricultural employer's prohibited act, and to provide other relief. An order of the

1 board may not require the reinstatement of an individual as an agricultural employee who
2 has been suspended or discharged for cause or the payment to the agricultural employee of
3 any back pay if the individual was suspended or discharged for cause.

4 **4. Dismissal of complaint.** If after hearing and argument and upon a preponderance
5 of the evidence received the board is not of the opinion that a party named in the complaint
6 has engaged in or is engaging in any prohibited act under section 3904, the board shall state
7 in writing its findings of fact and the reasons for its conclusions and issue an order
8 dismissing the complaint.

9 **5. Enforcement action; scope of review; consolidation of actions.** If after the
10 issuance of an order by the board requiring a party to cease and desist or to take any other
11 affirmative action the party fails to comply with the order of the board, the party in whose
12 favor the order operates or the board may file a civil action in Superior Court to compel
13 compliance with the order of the board. Upon application of a party in interest or the board,
14 the Superior Court may grant temporary relief or a restraining order and may impose terms
15 and conditions as determined just and proper. The board's decision may not be stayed
16 except when it is clearly shown to the satisfaction of the Superior Court that substantial and
17 irreparable injury is likely to be sustained or that there is a substantial risk of danger to the
18 public health or safety. In an action to compel compliance, the Superior Court may not
19 review the action of the board other than to determine whether the board has acted in excess
20 of its jurisdiction. If an action to review the decision of the board is pending at the time of
21 the commencement of an action for enforcement pursuant to this subsection or is filed later,
22 the enforcement action and the request for review of a board decision in the Superior Court
23 must be consolidated.

24 **6. Review.** Either party may seek a review by the Superior Court of a decision or order
25 of the board by filing a complaint in accordance with the Maine Rules of Civil Procedure,
26 Rule 80C within 15 days of the date of issuance of the board's decision. The complaint
27 must be served upon the board and all parties to the board proceeding by certified mail,
28 return receipt requested. Upon the filing of the complaint, the Superior Court shall schedule
29 the hearing and notify all parties in interest and the board. Pending review and upon
30 application of a party in interest, the Superior Court may grant temporary relief or a
31 restraining order and impose terms and conditions that the Superior Court determines just
32 and proper, including back pay and compensation for actual and consequential losses,
33 except that the board's decision or order is not stayed unless it is clearly shown to the
34 satisfaction of the Superior Court that substantial and irreparable injury will be sustained
35 or that there is a substantial risk of danger to the public health or safety. The executive
36 director shall immediately file in the Superior Court the record in the proceeding certified
37 by the executive director or a member of the board. The record must include all documents
38 filed in the proceeding and the transcript, if any. A hearing must be held after notice, and
39 after the hearing the Superior Court may enforce, modify, enforce as modified or set aside
40 in whole or in part the decision or order of the board, except that the findings of the board
41 on questions of fact are final unless shown to be clearly erroneous. An appeal to the
42 Supreme Judicial Court must be the same as an appeal from an interlocutory order under
43 section 6.

44 **7. Privileges seeking injunctive relief.** In a judicial proceeding authorized by this
45 section in which injunctive relief is sought, subsections 5 and 6 apply, except that an

1 allegation or proof of unavoidable substantial and irreparable injury to the complainant's
2 property is not required to obtain a temporary restraining order or injunction.

3 **§3906. Hearings**

4 **1. Hearings; rules of evidence; evidence.** Hearings conducted by the board must be
5 informal and the rules of evidence prevailing in judicial proceedings are not binding. Any
6 documentary evidence and other evidence determined to be relevant by the board may be
7 received by the board.

8 **2. Subpoenas; evidence; witness fees.** The chair of the board may administer oaths
9 and require by subpoena the attendance and testimony of witnesses and the presentation of
10 books, records and other evidence relative or pertinent to the issues presented to the board
11 for determination. Witnesses subpoenaed by the board are allowed the same fees paid to
12 witnesses in the Superior Court. These fees, together with all necessary expenses of the
13 board, must be paid by the Treasurer of State on warrants drawn by the State Controller.

14 **§3907. Federal precedents**

15 The board shall consult precedents under the National Labor Relations Act, as
16 amended, as appropriate.

17 **SUMMARY**

18 This bill enacts the Agricultural Employees Concerted Activity Protection Act, which
19 gives agricultural employees of agricultural employers the right to engage in certain
20 concerted activity.