

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 447

H. P. 338

House of Representatives, January 28, 1969

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. McTeague of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Establishing an Occupational Safety Rules and Regulations Board.

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

R. S., T. 26, c. 6, additional. Title 26 of the Revised Statutes is amended by adding a new chapter 6, to read as follows :

CHAPTER 6

OCCUPATIONAL SAFETY RULES AND REGULATIONS BOARD

§ 561. Declaration of policy

It is declared the public policy of the State of Maine that workers employed in any occupation shall be protected from hazards to their health or safety and that working conditions shall be maintained that will be reasonably free of hazards to their health and safety.

§ 562. Coverage

This chapter shall apply to all employers except those exempt under section 45-A.

§ 563. Definitions

Under this chapter, the following words shall have the following meanings :

1. Approved. "Approved" shall mean as approved by the Board of Occupational Safety Rules and Regulations ;
2. Board. "Board" shall mean the Board of Occupational Safety Rules and Regulations ;

3. Commissioner. "Commissioner" shall mean the Commissioner of Labor and Industry;

4. Department. "Department" shall mean the Department of Labor and Industry;

5. Employ. "Employ" shall mean employ, suffer or permit to work;

6. Employee. "Employee" shall mean any individual employed or permitted to work by an employer but the following individuals shall be exempt from this chapter:

A. Any individual employed in agriculture as defined in the Maine Employment Security Commission law and the Federal Unemployment Insurance Tax Law;

B. Any individual employed in domestic service in or about a private home;

C. Any individual employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as incident to, or in conjunction with, such fishing operations, including the going to and returning from work and including employment in the loading and unloading when performed by any such employee;

7. Occupation. "Occupation" shall mean employment in an industry, trade or business or branch thereof or class of work therein in which workers are gainfully employed;

8. Occupational safety and health standard. "Occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations or processes reasonably necessary to provide employment and places of employment that are free from hazards to safety or health.

9. Single industry. "Single industry" shall mean an industry as defined in the Standard Industrial Classification Manual 1967.

§ 564. Establishment of board; purpose

For the purpose of formulating and adopting safety rules and regulations to provide reasonably safe and healthful working conditions for all employees, other than those exempt in section 45-A, the Board of Occupational Safety Rules and Regulations is established.

The board shall consist of 7 members of which 6 shall be appointed by the commissioner subject to the approval of the Governor and Council. Of the 6 appointed members of the board, 2 shall represent employers; 2 shall represent employees; one shall represent an insurance company licensed to insure Workmen's Compensation within the State and one shall represent the public. The 7th member of the board shall be the Commissioner of Labor and Industry.

The term of office for the appointed members shall be 4 years. In the first appointment, 2 shall be appointed for a term of 2 years; 2 shall be appointed

for a term of 3 years and 2 shall be appointed for a term of 4 years. The chairman shall be elected biennially by the members of the board. Each member shall hold office until his successor is duly appointed and qualified.

In case of a vacancy in board membership, the commissioner, with the approval of the Governor and Council, shall appoint a member of the proper classification to fill the unexpired term of the absent member.

The board shall meet at least twice yearly at the State Capitol or any other place designated by the chairman.

The 6 appointed members of the board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of the board. The chairman of the board shall approve and countersign all vouchers for expenditures under this section.

§ 565. Powers and duties of board

The board shall formulate and adopt reasonable rules and regulations for safe and healthful working conditions, including rules requiring the use of personal protective equipment. The rules and regulations so formulated shall conform as far as practicable to standards adopted by the U. S. Department of Labor, the U. S. America Standards Institute or other nationally recognized standards of industrial safety. Such rules and regulations shall become effective 90 days after the date of their adoption and promulgation. Before any rules and regulations are adopted, a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers in the State. The board may at its discretion appoint ad hoc single industry's committees to advise and counsel the board on rules and regulations needed for the protection of the workers engaged in the industry. Such committees shall be composed of an equal number of representatives of employers and from employees engaged in the single industry and not less than one member representing safety engineers engaged by insurance companies licensed to write Workmen's Compensation Insurance in the State. Such committee members shall serve without salary and shall receive their actual expenses in the performance of their duties as members of such committees.

§ 566. Enforcement

The department shall inspect and enforce the rules and regulations.

§ 567. Enforcement penalty

If, upon inspection or investigation, the commissioner or his agents determine that any employer or employee has violated any rule or regulation promulgated under section 565, he shall issue such orders as are deemed to be necessary to enforce such rule or regulation. Any employer or employee who has been found in violation of any rule or regulation and who refuses to obey the order of the commissioner shall be punished by a fine of not less than \$25 nor more than \$200 for each violation. Each violation shall be a separate offense. When the violation is of a continuing nature, each day during which it continues after a reasonable time specified in the order shall constitute a separate offense, except during the time of appeal as provided in section 568.

§ 568. Appeals

Any person aggrieved by an order or act of the commissioner or of an inspector of the department under this chapter may, within 15 days after notice thereof, appeal from such order or act to the board which shall hold a hearing thereon, and said board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of the board or any rule or regulation formulated by the board shall be subject to review by the Superior Court by an appeal taken within 30 days after the date of such order to the Superior Court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by complaint to which such party shall annex the order of the board and in which the appellant shall set forth the substance of and the reasons for the appeal. Upon the filing thereof, the court shall order notice thereof. Upon the evidence and after hearing, which shall be held not less than 7 days after notice thereof, the court may modify, affirm or reverse the order of the board and the rule or regulation on which it is based in whole or in part in accordance with the law and the weight of the evidence. The court, upon hearing, shall determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.

STATEMENT OF FACTS

Federal Legislation is expected in the very near future establishing an Occupational Safety and Health Law which would exclude states from safety jurisdiction of industry affecting interstate commerce except those states having laws, rules and regulations and inspection programs which meet the standards and requirements of the U. S. Department of Labor. Approval will be denied for states which do not have an Occupational Safety Code and code-making authority. Maine could not presently qualify. This legislation is designed to give Maine a choice as to federal or state regulation. The estimated cost would be \$1,000 for 1969-70 and \$1,500 for 1970-71 for the expenses of the board in holding hearings and adopting rules and regulations. No additional staff would be needed immediately. These expenses are covered by the Supplemental Appropriations Act recommended by the Governor.