

MAINE STATE LEGISLATURE

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New Draft of: H. P. 419, L. D. 546

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 1780

H. P. 1363

House of Representatives, May 26, 1971

Reported by Mr. Lee from Committee on Labor and printed under Joint Rules No. 18.

BERTHA W. JOHNSON, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

**AN ACT Revising Certain Safety Laws in the Department of Labor and
Industry.**

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

Sec. 1. R. S., T. 26, § 45, repealed and replaced. Section 45 of Title 26 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 45. Notice of improper conditions

The workshops, equipment, tools, working conditions and conditions of a construction activity provided by an employer shall be reasonably safe and not in such condition as to be hazardous to the employee engaged therein. If, upon inspection, the commissioner or any authorized agent of the department shall find that an existing condition not covered by the rules and regulations of the occupational Safety Rules and Regulations Board, or the Construction Safety Rules and Regulations Board is such as to be injurious to the health of the persons employed or residing therein by reason of inadequate heating, lighting, ventilation or sanitary arrangement or for any other reason, or that reasonable safeguards for preventing accidents or injuries to those employed are not provided, he shall order, in writing, the employer, proprietor or agent operating such work place to make, within 30 days, the alterations or additions by him deemed necessary for the reasonable safety and protection of the employees. In case of extraordinary hazard, the commissioner or his agent may order that the hazard be removed immediately.

Any person aggrieved by any such order may appeal from such order as provided in section 7.

Sec. 2. R. S., T. 26, § 373-A, additional. Title 26 of the Revised Statutes is amended by adding a new section 373-A, to read as follows:

§ 373-A. Enforcement generally

If, upon inspection or investigation, the commissioner or his agents determine that any employer or employee or any person engaged in construction has violated any rule or regulation promulgated under section 373 or 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 or who refuses to obey the order of the commissioner may be punished by a fine of not 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 375.

Sec. 3. R. S., T. 26, § 374, repealed and replaced. Section 374 of Title 26 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 374. 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 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.

Sec. 4. R. S., T. 26, § 567, amended. Section 567 of Title 26 of the Revised Statutes, as enacted by chapter 454 of the public laws of 1969, is amended to read as follows:

§ 567. Enforcement generally

If, upon inspection or investigation, the commissioner or his agents determine that any employer or employee or any person engaged in construction has violated any rule or regulation promulgated under section 373 or 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~~ or 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.