

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-561)

COMMITTEE AMENDMENT "A" to H.P. 1385, L.D. 1700, Bill,
"AN ACT Concerning Preliminary Injunction and Temporary
Restraining Order under the Labor and Industry Statutes."

Amend said Bill by striking out everything after the
enacting clause and inserting in place thereof the following:

'26 MRSA §5 is repealed and the following enacted in
place thereof:

§ 5. Injunctions in labor disputes without hearing prohibited

No court nor any judge or judges thereof shall issue
a preliminary or permanent injunction in any case involving
or growing out of a labor dispute except after hearing the
testimony of witnesses in open court with opportunity for
cross-examination and after a showing that a substantial and
irreparable injury to the complainants property is not
likely to be avoided. Such hearing shall be held after due
and personal notice thereof has been given in such manner as
the court shall direct to all known persons against whom
relief is sought.

If a complainant shall allege that unless a temporary
restraining order shall be issued before such hearing can
be held that said substantial and irreparable injury to
complainant's property will not likely be avoided, a temporary
restraining order may be granted upon the expiration of such
reasonable notice as the court may direct by order to show
cause but in no case less than 48 hours.

Said order to show cause shall specify facts sufficient
to justify the court to issue a preliminary injunction. Said

order shall be based upon testimony under oath or, in the discretion of the court, upon affidavits sworn to before a Justice of the Peace or Notary Public. Such order shall be served upon ^{the} party or parties to be restrained.

Such a temporary restraining order shall be effective for no longer than 5 days except as thereafter provided. If the hearing for a preliminary injunction shall have been begun before the expiration of the said 5 days, and if the complainant has shown by clear and convincing evidence that an imminent danger of substantial and irreparable injury to his or its property or to his person will exist if the restraining order is not continued, the restraining order may in the court's discretion be continued until a decision is reached upon the issuance of the preliminary injunction.

A temporary restraining order without notice may be issued only on the condition that the complainant has shown by clear and convincing evidence that an imminent danger of substantial and irreparable injury to his or its property or to his person exists in the absence of a restraining order. Said order without notice may furthermore be issued only on the condition that ^{the} complainant shall first file an undertaking with adequate security sufficient to recompense those enjoined for any loss, expense or damage caused by the issuance of such order, including all reasonable costs and expense for defense against the order or against the granting of any injunctive relief sought in the same proceeding and

subsequently denied by the court.

Nothing in this section shall deprive any party of any remedy that may be had at law.'

Statement of Fact

The purposes of this amendment are clarification and to provide as a condition for the issuance of a temporary restraining order that the complainant has shown by clear and convincing evidence that an imminent danger of substantial and irreparable injury to his or its property or his person exists in the absence of a restraining order.

Reported by the Committee on Judiciary.

Reproduced and distributed under the direction of the Clerk of the House.

5/30/75

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