

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 1700

H. P. 1385

House of Representatives, April 4, 1975

On Motion of Mr. Tierney of Durham referred to Committee on Judiciary.  
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Durham.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT Concerning Preliminary Injunction and Temporary  
Restraining Order under the Labor and Industry Statutes.**

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

Sec. 1. 26 MRSA § 5, 4th ¶, 2nd sentence, is repealed and the following enacted in place thereof:

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 that an extreme imminent danger 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.

Sec. 2. 26 MRSA § 5, 4th ¶, last sentence, is amended to read:

A temporary restraining order may be issued without notice on condition that complainant shall first file an undertaking with adequate security sufficient to recompense those enjoined for any loss, expense or damage caused by the erroneous issuance of such order, including all reasonable costs and expense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court, and on condition that the complainant has shown an extreme imminent danger to his or its property or to his person exists in the absence of a restraining order. If the complainant is unable to show extreme imminent danger, but is able to furnish adequate security sufficient to recompense those enjoined for any loss, a temporary restraining order shall not be issued until the person, association or corporation to be enjoined and its counsel, if any, has been given due and personal notice of the prospective issuance of a temporary restraining order against him or it.

## STATEMENT OF FACT

This bill provides that if a judge has issued a temporary restraining order to a complainant involved in a labor dispute pending the outcome of a hearing for a preliminary injunction, the restraining order may only be continued beyond 5 days if the complainant seeking the preliminary injunction shows that an extreme imminent danger to his or its property or to his person will exist if the restraining order is not continued.

This bill also provides that a temporary restraining order shall not be issued without notice in a labor dispute unless the person or corporation seeking the order has demonstrated that there is an extreme imminent danger to his property in the absence of a restraining order and that he is able to furnish adequate security to compensate those to be enjoined for any loss caused. This bill further provides that if the person or corporation seeking the order cannot show an imminent danger to his property, but can show his or its ability to furnish adequate security, a temporary restraining order can be issued only after personal notice to the person, association or corporation to be enjoined and to his or its counsel.