

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1731

H. P. 1621

Office of the Clerk of the House

Governor's Bill. Reference to the Committee on Labor suggested.

EDWIN H. PERT, Clerk of the House

Presented by Mrs. Prescott of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Amend Certain Provisions of the Labor Laws.

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

Sec. 1. 26 MRSA § 44, first ¶, as amended by PL 1975, c. 519, § 4, is further amended to read:

The director as state factory inspector, and any authorized agent of the bureau, may enter any workplace as defined in section 1 **and any work area as defined in section 1702**, provided by the State, state agency, county, municipal corporation, school district or other public corporation or political subdivision **and place of private employment**, when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by sections 42 to 44, and may examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places, and may make a record of such inspection. Upon petition of the director, a Superior Court in the county in which any refusal was alleged to have occurred may order appropriate injunctive relief against any person in charge of said workplace **or work area** who refuses entry to the director or authorized agent of the bureau.

Sec. 2. 26 MRSA § 571 is enacted to read:

§ 571. Variance

Any affected employer may apply to the director for a variance from a standard promulgated under this chapter. The director shall issue a variance if the proponent of the variance demonstrates by a preponderance of the evidence that the conditions, practices, means, methods, operations or processes used or

proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. Any such variance shall be granted only after a hearing and opportunity for inspection. All affected employees shall be given notice of each application for a variance and an opportunity to participate in the hearing.

Sec. 3. 26 MRSA § 580, as enacted by PL 1971, c. 446, § 5, is repealed.

Sec. 4. 26 MRSA § 581, as amended by PL 1977, c. 694, § 464, is repealed.

Sec. 5. 26, MRSA § 663, sub-§ 3, ¶ K, as amended by PL 1975, c. 48, is further amended to read:

K. Any individual employed in a bona fide executive, administrative or professional capacity, and who is paid on a salary basis of not less than ~~\$150~~ \$175 weekly.

Sec. 6. 26 MRSA § 663, sub-§ 7, as amended by PL 1967, c. 385, is further amended to read:

7. Minimum wage for firemen. Members of municipal fire fighting departments, other than volunteer ~~or call departments~~, who are paid salaries or regular wages, are deemed to be employees within the meaning of this section and are covered by this subchapter. Firemen's wages may be paid by the municipality based upon the average number of hours worked during any one work cycle which is not to exceed 12 weeks in duration. However, 1½ times the hourly rate shall not be paid for all work done over ~~48~~ 40 hours under this subsection.

STATEMENT OF FACT

The purposes of this bill are to:

1. Give the Director of the Bureau of Labor right of access to workplaces and work areas in order to carry out his statutory duties;
2. Amend present statutory language which does not allow for any deviation from the written standards even though another method may provide a safer place of employment;
3. Repeal sections 580 and 581 which give the responsibility for enforcing health and safety standards for farm workers in the public sector to the Department of Agriculture, which has neither the standards nor the compliance officers necessary to enforce these provisions and to place public sector farm workers under the Bureau of Labor;
4. Raise the minimum salary of supervisors to \$175 a week, because the last increase in the base salary for executive, administrative or professional employees was in 1975 when the minimum wage was \$2.30 per hour, and effective January 1, 1980, the minimum wage will be \$3.10 per hour, at which time many

hourly workers will be paid a higher wage than their supervisors if the minimum salary is not raised; and

5. To put the overtime provision for firemen into compliance with the remainder of section 663 and covers call firemen under the minimum wage law.