

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 864

6  
7 H.P. 594

House of Representatives, February 28, 1985

8 On Motion of Representative Beaulieu of Portland, referred to the  
9 Committee on Labor. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Connolly of Portland.

11 Cosponsored by Senator Tuttle of York, Senator Dutremble of York and  
Speaker Martin of Eagle Lake.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Assist Workers' Displaced from  
18 Employment by Imports.  
19

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

22 Sec. 1. 26 MRS A c. 26 is enacted to read:

23 CHAPTER 26

24 TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

25 §2050. Trade adjustment assistance for workers

26 The Department of Labor may administer and oper-  
27 ate a program of trade adjustment assistance to work-  
28 ers as provided under United States Trade Act of  
29 1974, Title II, Chapter 2, and any amendments and ad-  
30 ditions to that Act.

31 §2051. Purpose

1       The purpose of this program is to assist individ-  
2 uals, who have become unemployed due to imports, to  
3 return to work in equivalent or better employment.  
4 The program provides assistance to eligible individu-  
5 als in the form of weekly trade adjustment allow-  
6 ances, reemployment services, training and job search  
7 and relocation allowances.

8       §2052. Definitions

9       As used in this chapter, unless the context indi-  
10 icates otherwise, the following terms have the follow-  
11 ing meanings.

12       1. Act. "Act" means the United State Trade Act  
13 of 1974, Title II, Chapter 2, Public Law 93-618, 88  
14 Stat. 1978, 2019-2030, the United States Code, Title  
15 19, Sections 2271-2322, as amended.

16       2. Commissioner. "Commissioner" means the Com-  
17 missioner of the Department of Labor.

18       3. Department. "Department" means the Depart-  
19 ment of Labor.

20       4. Mass layoff. "Mass layoff" means a layoff  
21 which meets the following criteria:

22       A. The establishment is in a nonagricultural in-  
23 dustry including federal, state or local govern-  
24 ment, but excluding construction and layoffs of a  
25 seasonal nature;

26       B. The duration of the layoff is permanent with  
27 no plans for recall or indefinite when the em-  
28 ployer expects to recall workers but no date is  
29 set; and

30       C. The layoff cannot be for a period of less  
31 than one month and must involve at least 25 or 50  
32 workers depending upon the cause of the layoff.

33       5. Secretary. "Secretary" means the Secretary  
34 of the United States Department of Labor.

35       Any term not defined in this section shall be de-  
36 efined as provided in the Act.

1       §2053. Duty to make rules

2           The commissioner shall, prior to December 31,  
3 1985, promulgate rules in accordance with the Maine  
4 Administrative Procedure Act, Title 5, chapter 375,  
5 which shall establish procedures for the implementa-  
6 tion of the provisions of the Act and this chapter,  
7 including, but not limited to, the following:

8           1. Reemployment services and allowances; notice;  
9 application and filing. The manner in which workers  
10 shall be given notice pursuant to section 2056, of  
11 the reemployment services and allowances available  
12 under the Act, the application procedures, and the  
13 filing date requirements for the reemployment ser-  
14 vices and allowances;

15           2. Procedures. Procedures for accepting, pro-  
16 cessing and rendering determinations on applications  
17 for benefits under this Act;

18           3. Review; redetermination. Provision for ad-  
19 ministrative and judicial review of all determina-  
20 tions and redeterminations rendered under the Act and  
21 this chapter;

22           4. Suitable employment; determination. Determi-  
23 nation as to whether suitable employment is availa-  
24 ble;

25           5. Reemployment plans. Development, review and  
26 updating, when necessary, of reemployment plans for  
27 workers;

28           6. Counseling; testing; placement and support-  
29 ive services. Provisions of counseling, testing,  
30 placement and supportive services;

31           7. Self-directed job search training. Provision  
32 or procurement of self-directed job search training;

33           8. Out-of-area job search; relocation. Provi-  
34 sion of out-of-area job search and relocation assist-  
35 ance;

36           9. Training referral. Referral to training;

1       10. Training. Locating, approving and procuring  
2 training;

3       11. Training program; monitored. Monitoring the  
4 provisions of the approved training program;

5       12. Reasonable expectation of employment follow-  
6 ing training. Determination as to which occupations  
7 and training institutions offer, in a cost effective  
8 manner, a reasonable expectation of employment fol-  
9 lowing that training;

10       13. Occupation selection; standards and proce-  
11 dures. Adoption of standards and procedures used to  
12 select occupations and training institutions in which  
13 training is approved;

14       14. Record keeping. Systems for record keeping  
15 with regard to all claims filed under the Act and  
16 this chapter.

17 §2054. Eligibility determined

18       Eligibility shall be determined in accordance  
19 with procedures established pursuant to section 2053,  
20 as follows.

21       1. Application. The department shall treat any  
22 clear expression of interest in assistance provided  
23 under the Act as an application and shall provide the  
24 individual with an opportunity to make written appli-  
25 cation for that assistance.

26       2. Determination. The department shall promptly  
27 determine the eligibility of all applicants for as-  
28 sistance, and shall notify the applicant of that de-  
29 termination including the rights to appeal the deter-  
30 mination.

31       3. Reemployment plan. The department shall pre-  
32 pare a reemployment plan for each person eligible to  
33 receive assistance under the Act. The plan shall set  
34 out any and all assistance to be provided to the in-  
35 dividual and shall not be modified except by mutual  
36 agreement between the parties. The worker shall par-  
37 ticipate fully in the development of the plan.

1           4. Appeals and hearings. Any determination or  
2 redetermination under the Act shall be subject to re-  
3 view in the same manner and to the same extent as de-  
4 terminations and redeterminations made under chapter  
5 13.

6           §2055. Notice to workers

7           In each local office where unemployment claims  
8 are filed, there shall be posted, in a conspicuous  
9 place and written in plain language, a notice stating  
10 the purpose of the Act and containing information re-  
11 garding how a petition for certification is made and  
12 the scope of benefits available under the Act. A  
13 list of all pending and currently certified petitions  
14 within the State shall also be posted.

15          §2056. Duties of the commissioner

16           1. Investigation. When a notice of mass layoff  
17 is prepared by any local job service office, the com-  
18 missioner shall investigate, by all appropriate  
19 means, and shall determine whether and to what extent  
20 foreign imports contributed to the layoff.

21           2. Petition filed. If the commissioner deter-  
22 mines that foreign imports contributed to a mass lay-  
23 off, he shall arrange for a petition for certifica-  
24 tion under the Act to be filed by 3 affected workers,  
25 by their certified or recognized union or other duly  
26 authorized representative.

27           3. Notification required. When a petition for  
28 certification under the Act, whether or not initiated  
29 under the provision of subsection 2, has been filed  
30 with the secretary, the commissioner shall:

31           A. Notify all workers and their certified or  
32 recognized union, if any, by regular mail at  
33 their last known address, that a petition has  
34 been filed on their behalf, including notice of  
35 benefits available under the Act and their right  
36 to apply for those benefits;

37           B. Publish notice that the petition has been  
38 filed in a newspaper of general circulation in  
39 the affected area; and

1 C. Notify the congressional delegation repre-  
2 senting the State that the petition has been  
3 filed.

4 4. Authorization of representation by Attorney  
5 General. The Attorney General shall represent the  
6 interest of the affected workers with respect to pe-  
7 titions filed under the Act. Any labor organization  
8 may also represent its members for this purpose.

9 Nothing in this subsection may preclude any affected  
10 worker from authorizing any person of his choosing to  
11 represent him in this manner.

12 5. Certification determined. When the secretary  
13 makes a determination on a petition for certification  
14 filed under the Act, the commissioner shall:

15 A. Notify all affected workers and their certi-  
16 fied or recognized union, if any, of the determi-  
17 nation by regular mail at their last known ad-  
18 dress. Where an affirmative determination has  
19 been made, all affected employees shall be in-  
20 formed in a meaningful manner in accordance with  
21 rules promulgated pursuant to section 2053, of  
22 all benefits available to eligible individuals  
23 under the Act, specifying filing date require-  
24 ments for those benefits where applicable, and  
25 requesting that they contact the department imme-  
26 diately so that their eligibility for assistance  
27 can be determined. Where an adverse determina-  
28 tion on a petition for certification, or part of  
29 a petition, is made by the secretary, affected  
30 individuals shall be notified of their right to  
31 appeal that determination;

32 B. Publish notice of the determination in a  
33 newspaper of general circulation in the affected  
34 area including the means by which the determina-  
35 tion may be appealed where appropriate;

36 C. Notify the congressional delegation repre-  
37 senting the State of the determination; and

38 D. Notify the Attorney General of the determina-  
39 tion.

1     §2057. Suits by the commissioner

2             The commissioner may bring an action in any court  
3 of competent jurisdiction to challenge any adverse  
4 determination on a petition for certification, or  
5 part of a petition, filed under the Act.

6     §2058. Approved training

7             1. Standards. Except as otherwise provided in  
8 this section, the department shall approve training  
9 for an affected worker when:

10            A. There is no suitable employment, including,  
11 but not limited to, technical and professional  
12 employment, available for a worker;

13            B. The worker would benefit from appropriate  
14 training;

15            C. There is a reasonable expectation of employ-  
16 ment following completion of training;

17            D. Training approved by the secretary is availa-  
18 ble to the worker from either governmental agen-  
19 cies or private sources, including, but not lim-  
20 ited to, vocational centers or regions, as de-  
21 finied in Title 20-A, chapter 313, and employers;  
22 and

23            E. The worker is qualified to undertake and com-  
24 plete training.

25            2. Availability of funds. Approval of training  
26 shall be subject to the availability of funds appro-  
27 priated under the Act or available from other public  
28 or private sources.

29     §2059. Consistency required

30             The requirements of this chapter shall be inter-  
31 preted and implemented in a manner which is consist-  
32 ent with the Act.

33     §2060. Employers to provide information



1           Any employer whose employees have filed a peti-  
2 tion for benefits under the Act, or for whom such a  
3 petition has been filed, shall provide the following  
4 information to the commissioner.

5           1. Effect of foreign imports. Any information  
6 available to him regarding the extent to which em-  
7 ployment at his establishment has been affected by  
8 foreign imports.

9           2. Employee list. A full and complete list, in-  
10 cluding names, most recent addresses and social secu-  
11 rity numbers of all employees presently working at  
12 his establishment and those who have worked there  
13 within the last 2 years, including the dates of their  
14 employment.

15           Failure to provide information required by this  
16 section shall be punished by a fine of not less than  
17 \$1,000 nor more than \$5,000 for each violation.  
18 These fines shall be placed in a special administra-  
19 tion account and used to provide retraining and sup-  
20 portive services to workers eligible for assistance  
21 under this chapter.

22           Sec. 2. 26 MRSA §1164, as amended by PL 1983, c.  
23 351, §15, is further amended to read:

24           §1164. Special Administrative Expense Fund

25           The Special Administrative Expense Fund, as here-  
26 tofore created, shall be a special fund in the State  
27 Treasury. All interest, fines and penalties collected  
28 under this chapter, together with any voluntary con-  
29 tributions tendered as a contribution to this fund,  
30 shall be paid into this fund. The moneys shall not  
31 be expended or available for expenditure in any man-  
32 ner which would permit their substitution for or a  
33 corresponding reduction in federal funds which would  
34 in the absence of said moneys be available to finance  
35 expenditures for the administration of the Employment  
36 Security Law. Nothing in this section ~~shall~~ may shall  
37 prevent the moneys from being used as a revolving  
38 fund to cover expenditures, necessary and proper un-  
39 der the law, for which federal funds have been duly  
40 requested but not yet received, subject to the charg-  
41 ing of those expenditures against those funds when

1 received. The moneys in this fund shall be used by  
2 the commissioner either for the payment of costs of  
3 administration which are found not to have been prop-  
4 erly and validly chargeable against federal grants or  
5 other funds received for or in the Employment Securi-  
6 ty Administration Fund on or after January 1, 1943,  
7 or to finance the Maine Wage Assurance Fund estab-  
8 lished in section 632. The moneys shall be available  
9 either to satisfy the obligations incurred by the bu-  
10 reau directly or by requesting the Treasurer of State  
11 to transfer the required amount from the Special Ad-  
12 ministrative Expense Fund to the Employment Security  
13 Administration Fund or the Maine Wage Assurance Fund.  
14 The Treasurer of State shall upon receipt of a writ-  
15 ten request of the commissioner make any such trans-  
16 fer. The commissioner shall give notice to the com-  
17 mission prior to any expenditures from this fund.  
18 The commissioner shall order the transfer of the  
19 funds or the payment of any such obligation and the  
20 funds shall be paid by the Treasurer of State on re-  
21 quisitions drawn by the commissioner directing the  
22 State Controller to issue his warrant therefor. Any  
23 such warrant shall be drawn by the State Controller  
24 based upon bills of particulars and vouchers certi-  
25 fied by an officer or employee designated by the com-  
26 missioner. The moneys in this fund are specifically  
27 made available to replace, within a reasonable time,  
28 any moneys received by this State pursuant to section  
29 302 of the Federal Social Security Act as amended,  
30 which because of any action or contingency, have been  
31 lost or have been expended for purposes other than,  
32 or in amounts in excess of, those necessary for the  
33 proper administration of the Employment Security Law.  
34 The moneys in this fund shall be continuously availa-  
35 ble to the commissioner for expenditure in accordance  
36 with this section and shall not lapse at any time or  
37 be transferred to any other fund except as provided.  
38 Any moneys in the Special Administrative Expense Fund  
39 may be used to make refunds of interest, penalties or  
40 fines erroneously collected and deposited in the Spe-  
41 cial Administrative Expense Fund. On June 30th of  
42 each year all moneys in excess of \$100,000 in this  
43 fund shall be transferred to the Unemployment Compens-  
44 ation Fund a special account to be used to provide  
45 training and supportive services to workers eligible  
46 for assistance under chapter 26.

1 STATEMENT OF FACT

2 For many years Maine has suffered job loss be-  
3 cause of the increasing number of foreign made  
4 products entering the United States. Within the last  
5 4 years, over 3,000 jobs have been lost in the shoe  
6 industry for this reason. Many shoeworkers have  
7 spent their entire work life in that industry and  
8 need retraining in order to be able to compete effec-  
9 tively in the changing labor market. The United  
10 States Trade Act of 1974 provides assistance to work-  
11 ers displaced from employment because of imports, but  
12 many affected workers are unaware of the means by  
13 which they may petition for or take advantage of as-  
14 sistance provided under the Act. Further, federal  
15 resources available for retraining under the Act have  
16 been severely limited in recent years.

17 This bill establishes certain supplemental state  
18 procedures to increase awareness of the Act and its  
19 benefits among affected workers and to ensure that,  
20 to the extent possible, all petitions with merit re-  
21 ceive timely certification by the United States Sec-  
22 retary of Labor. The bill requires the Commissioner  
23 of the Department of Labor to make rules implementing  
24 the provisions of the Act and this bill. Finally, it  
25 requires all moneys in excess of \$100,000 in the De-  
26 partment of Labor's special administrative account on  
27 June 30th of each year to be placed in a special ac-  
28 count and used to provide training and supportive  
29 services to workers eligible for assistance under the  
30 Act. The moneys used to create this new account are  
31 accumulated from fines, interest and penalties paid  
32 as required by Maine's employment security law and is  
33 not General Fund money.

34 1383012485