

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 175, L.D. 209)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1057

8 H.P. 751

House of Representatives, March 19, 1985

9 Reported by Representative Bonney from the Committee on Labor and
10 printed under Joint Rule 2. Original bill sponsored by Representative Willey
11 of Hampden. Cosponsored by Senator Twitchell of Oxford, Representative
Bell of Paris and Representative Brown of Gorham.

EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT to Restrict the Payment of
19 Unemployment Compensation Benefits to
20 Workers Who are on Strike.
21

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

24 26 MRSA §1193, sub-§4, as amended by PL 1983, c.
25 351, §17, is further amended to read:

26 4. Stoppage of work. For any week with respect
27 to which the deputy, after notification by the Direc-
28 tor of Unemployment Compensation pursuant to under
29 section 1194, subsection 2, finds that his total or
30 partial unemployment is due to a stoppage of work
31 which exists because of a labor dispute at the facto-
32 ry, establishment or other premises at which he is or
33 was employed, or there would have been a stoppage of
34 work had substantially normal operations not been
35 maintained with other personnel previously and cur-
36 rently employed by the same employer and any other

1 additional personnel which the employer may hire to
2 perform tasks not previously done by the striking
3 employees. This subsection shall does not apply if it
4 is shown to the satisfaction of the deputy that:

5 A. He is not participating in or financing or
6 directly interested in the labor dispute which
7 caused the stoppage of work;

8 B. He does not belong to a grade or class of
9 workers of which, immediately before the com-
10 mencement of the stoppage there were members em-
11 ployed at the premises at which the stoppage oc-
12 curs, any of whom are participating in or financ-
13 ing or directly interested in the dispute;

14 C. He has obtained employment subsequent to the
15 beginning of the stoppage of work and has earned
16 at least 8 times his weekly benefit amount or has
17 been in employment by an employer for 5 full
18 weeks; or

19 D. He became unemployed because of a strike or
20 lockout caused by an employer's willful failure
21 to observe the terms of the safety and health
22 section of a union contract; an employer's
23 willful failure to comply in a timely fashion
24 with an official citation for a violation of fed-
25 eral and state laws involving occupational safety
26 and health; or the quitting of labor by an em-
27 ployee or employees in good faith because of an
28 abnormally dangerous condition for work at the
29 place of employment of that employee or employ-
30 ees; provided that the strike or lockout shall
31 not extend past the time of the employer's com-
32 pliance with the safety and health section of the
33 union contract, the employer's compliance with
34 the official citation, or the finding that an ab-
35 normally dangerous condition does not exist by a
36 federal or state official empowered to issue of-
37 ficial citations for violation of federal and
38 state laws involving occupational safety and
39 health.

40 If in any case separate branches of work which are
41 commonly conducted as separate businesses in separate
42 premises are conducted in separate departments of the

1 same premises, each such department shall, for the
2 purposes of this subsection, be deemed to be a sepa-
3 rate factory, establishment or other premises;

4 FISCAL NOTE

5 If enacted, this new draft will create potential
6 savings in federal fund expenditures held in reserve
7 by the Department of Labor for the payment of unem-
8 ployment compensation. The amount of these savings
9 will be determined by the number, length, size and
10 circumstances of labor disputes in the State.

11 STATEMENT OF FACT

12 This new draft clarifies the extent of the work
13 stoppage disqualification of striking workers. It is
14 adapted from a Kansas law and is intended to disqual-
15 ify striking workers from receiving unemployment benef-
16 its unless they have been effectively displaced
17 from their former jobs. This displacement is deemed
18 to occur when an employer maintains substantially
19 normal operations at his establishment by hiring new
20 personnel to perform work ordinarily done by the
21 striking workers.

22 The new draft allows employers more freedom to
23 keep their business in operation by using supervisory
24 personnel or nonstriking full-time or part-time em-
25 ployees to perform work normally done by the striking
26 workers; employees who work in a different,
27 nonstriking factory or establishment of the employer
28 may also be used in this way. It also allows an em-
29 ployer to hire additional employees during the strike
30 to help maintain normal operations without automati-
31 cally authorizing the payment of benefits to the
32 striking workers, as long as those new workers do not
33 perform any of the tasks that would be done by the
34 striking workers had a strike not occurred. In all
35 these situations, the workers' jobs would still be
36 available for them to return to if the labor dispute
37 is settled.

1 The new draft continues the present practice un-
2 der the work stoppage test of allowing striking work-
3 ers to receive benefits if the employer maintains a
4 substantially normal level of operations by hiring
5 additional employees to perform the striking workers'
6 normal tasks. The determination of a work stoppage
7 will still depend on an analysis of many factors, in-
8 cluding any drop in production or the number of em-
9 ployed production workers, as compared with previous
10 levels.

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