

MAINE STATE LEGISLATURE

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(New Draft of H.P. 623, L.D. 842)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1690

H.P. 1238 House of Representatives, May 29, 1987
Reported by the Majority from the Committee on Labor and
printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Representative BAKER of
Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Provide Civil Enforcement of the
2 Anti-strikebreaker Law to Encourage
3 the Settlement and Peaceful Resolution
4 of Labor Disputes.
5

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

8 Sec. 1. 26 MRSA §852, as enacted by PL 1965, c.
9 189, is repealed and the following enacted in its
10 place:

11 §852. Recruitment of professional replacements pro-
12 hibited

13 No person, partnership, union, agency, firm, cor-
14 poration or officer, or employee or agent thereof,

1 may recruit, procure, supply or refer any person for
2 employment:

3 1. Persons. Who customarily or repeatedly of-
4 fers himself or others for employment to perform the
5 duties normally assigned to employees involved in a
6 labor dispute, strike or lockout; or

7 2. Use or assistance. By the use of or with the
8 assistance of an individual or organization which
9 customarily or repeatedly offers himself or others
10 for employment to perform the duties normally as-
11 signed to employees involved in a labor dispute,
12 strike or lockout.

13 Sec. 2. 26 MRSA §853, as enacted by PL 1965, c.
14 189, is repealed and the following enacted in its
15 place:

16 §853. Employment of professional replacements pro-
17 hibited

18 No person, partnership, union, firm or corpora-
19 tion involved in a labor dispute, strike or lockout
20 may, directly or indirectly:

21 1. Employment or retention. Employ or retain
22 any person or organization which customarily and re-
23 peatedly offers himself or other persons for employ-
24 ment to perform the duties normally assigned to em-
25 ployees involved in a labor dispute, strike or lock-
26 out; or

27 2. Contracts or arrangements. Contract for or
28 arrange with any such entity to employ the services
29 of those persons.

30 Sec. 3. 26 MRSA §855, as enacted by PL 1965, c.
31 189, is repealed and the following enacted in its
32 place:

33 §855. Evidence

34 It is prima facie evidence that a person or an
35 entity customarily and repeatedly acts to offer him-
36 self or others for employment to perform the duties
37 normally assigned to employees involved in a labor

1 dispute, strike or lockout if that person or entity,
2 at least 2 times before, has provided or offered to
3 provide himself or other persons to perform the du-
4 ties normally assigned to employees involved in a la-
5 bor dispute, strike or lockout.

6 Sec. 4. 26 MRSA §855-A is enacted to read:

7 §855-A. Civil action; injunctive or other relief

8 Any person, corporation or labor organization may
9 bring a civil action for injunctive or other relief
10 to enforce this chapter. Actions brought under this
11 section are not subject to sections 5 to 7.

12 Sec. 5. 26 MRSA §857 is enacted to read:

13 §857. Security and maintenance personnel

14 Nothing in this subchapter may be construed to
15 prevent the employment of any person or the use of
16 any partnership, firm, union, agency or corporation
17 to retain a person to perform security or maintenance
18 work for an employer involved in a labor dispute,
19 strike or lockout. No relief may be awarded under
20 section 855-A nor may any fine or sentence be imposed
21 under section 856 concerning the employment of any
22 person to perform security or maintenance work for an
23 employer involved in a labor dispute, strike or lock-
24 out.

25 STATEMENT OF FACT

26 This new draft clarifies the intent of the origi-
27 nal bill by repealing existing provisions of law
28 which are essentially included in this new draft.
29 The new draft further clarifies the intent of the
30 original bill by refining the description of profes-
31 sional strikebreakers included in the original bill.
32 Under this new draft, employers are prohibited from
33 hiring replacement workers for employees involved in
34 a labor dispute, strike or lockout only if those re-
35 placements have customarily and repeatedly offered
36 themselves for employment to perform work that would
37 otherwise be done by the striking or locked out em-

1 ployees. Persons who are hired to perform routine
2 security and maintenance tasks are exempt from this
3 description under the new draft.

4 As part of the equitable balance of economic power
5 apportioned to both the employer and the employees
6 under the collective bargaining process, an employer
7 remains free to hire any person to replace his em-
8 ployees during a labor dispute, except for those per-
9 sons who have essentially made a professional career
10 out of breaking strikes. This new draft is intended
11 to prevent the employment of only professional
12 strikebreakers and does not affect an employer's
13 ability to hire replacement workers who are not pro-
14 fessional strikebreakers or members or employees of
15 an organization or corporation which customarily and
16 repeatedly offers professional strikebreakers for em-
17 ployment during labor disputes.

18 Other provisions of the original bill are un-
19 changed in this new draft, including the provision
20 allowing civil enforcement of the anti-strikebreaker
21 law. This will permit more efficient enforcement of
22 the law and forestall potential violence that may
23 arise if an employer attempts to employ professional
24 strikebreakers.

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