

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1902

S.P. 671 In Senate, October 6, 1987
Approved for Introduction by a Majority of the Legislative
Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on October 6,
1987. Referred to the Committee on Labor and 1,650 ordered
printed pursuant to Joint Rule 14.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator KANY of Kennebec.

Cosponsored by Senator ERWIN of Oxford, President PRAY of
Penobscot, Representative PRIEST of Brunswick.

STATE OF MAINE

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

**AN ACT to Reduce the Potential for Violence
during Labor Disputes.**

Emergency preamble. Whereas, Acts of the Legis-
lature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

Whereas, at least one major employer in the State
is currently in the midst of a labor strike, and sev-
eral other employers may soon find themselves in sim-
ilar circumstances; and

Whereas, violence has already resulted from labor
disputes in the recent past and the potential for fu-
ture violence remains high; and

1 Whereas, certain actions taken by parties to a
2 labor dispute may tend to incite violent reactions;
3 and

4 Whereas, despite the presence of federal laws
5 regulating labor disputes, the State retains its
6 strong obligation to protect its citizens from vio-
7 lence; and

8 Whereas, in the judgment of the Legislature,
9 these facts create an emergency within the meaning of
10 the Constitution of Maine and require the following
11 legislation as immediately necessary for the preser-
12 vation of the public peace, health and safety; now,
13 therefore,

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

16 Sec. 1. 26 MRSA §595 is enacted to read:

17 §595. Hiring of workers during a labor dispute

18 1. Legislative findings. The Legislature finds
19 that:

20 A. The practice of receiving applicants for em-
21 ployment, conducting interviews of job applicants
22 or performing medical examinations of job appli-
23 cants at the worksite of an employer who is cur-
24 rently engaged in a labor dispute with his em-
25 ployees tends to incite violence by bringing in-
26 dividuals who may be considered as replacements
27 for former workers to the physical focus of the
28 labor dispute and by encouraging a direct con-
29 frontation between these individuals and the pri-
30 or employees; and

31 B. The presence of persons carrying dangerous
32 weapons near sites where applications for posi-
33 tions with an employer involved in a labor dis-
34 pute are being accepted or where interviews of
35 job applicants are being conducted or medical ex-
36 aminations of applicants are being performed cre-
37 ates an unacceptable risk of violence; and

1 C. The public safety requires the regulation of
2 these practices to reduce the likelihood of vio-
3 lence.

4 2. Purpose. The purpose of this subchapter is
5 to reduce the potential for violence during labor
6 disputes by prohibiting certain provocative acts and
7 imposing penalties for failure to obey this subchap-
8 ter.

9 3. Receiving job applicants at worksite prohib-
10 ited. No employer may perform any of the following
11 acts at any of that employer's plants, facilities,
12 places of business or worksites where a labor dis-
13 pute, strike or lockout involving the employees of
14 that employer is in progress:

15 A. Receiving persons for the purpose of solicit-
16 ing or receiving applications for employment with
17 the employer;

18 B. Conducting or having conducted interviews of
19 applicants for employment with the employer; or

20 C. Performing or having performed medical exami-
21 nations of applicants for employment with the em-
22 ployer.

23 Any employer who violates this subsection is subject
24 to a civil penalty not to exceed \$10,000 for each day
25 the violation continues, payable to the State, to be
26 recovered in a civil action. Upon request, any court
27 of competent jurisdiction shall also enjoin the vio-
28 lation under section 5.

29 The Attorney General, the Commissioner of Labor or
30 any employee, employees or bargaining agent of em-
31 ployees involved in the labor dispute may enforce
32 this subsection.

33 4. Dangerous weapons prohibited. It is a Class
34 D crime for any person, including security guards and
35 persons involved in a labor dispute, strike or lock-
36 out, to be armed with a dangerous weapon, as defined
37 in Title 17-A, section 2, subsection 9, at a site
38 where applications for employment with an employer
39 involved in a labor dispute, strike or lockout are

1 being received or where interviews of job applicants
2 are being conducted or where medical examinations of
3 job applicants are being performed.

4 A. A person holding a valid permit to carry a
5 concealed firearm is not exempt from this subsec-
6 tion.

7 B. A security guard is exempt from this subsec-
8 tion to the extent that federal laws or rules re-
9 quired the security guard to be armed with a dan-
10 gerous weapon at such a site.

11 C. A public law enforcement officer is exempt
12 from this subsection while on active duty in the
13 public service.

14 **Sec. 2. 30 MRSA §953, as repealed and replaced**
15 **by PL 1977, c. 431, §8, is amended by adding at the**
16 **end a new paragraph to read:**

17 No deputy or special deputy may wear or display a
18 uniform or badge that identifies him as a public law
19 enforcement officer except while on active duty in
20 the public service and while traveling to and from
21 public work.

22 **Sec. 3. 30 MRSA §2367 is enacted to read:**

23 §2367. Wearing of uniforms or badges

24 No municipal police officer, special police offi-
25 cer, constable or other municipal law enforcement of-
26 ficer may wear or display a uniform or badge that
27 identifies him as a public law enforcement officer
28 except while on active duty in the public service and
29 while traveling to and from public work.

30 **Emergency clause. In view of the emergency cited**
31 **in the preamble, this Act shall take effect when ap-**
32 **proved.**

1

STATEMENT OF FACT

2 Recent experience has shown that the heightened
3 tension associated with labor disputes often leads to
4 violence as a result of actions taken by an employer.
5 While the employer may be justified in his actions
6 and his right to engage in many of these activities
7 may be protected by federal statutes, the State con-
8 tinues to have an obligation to protect all of its
9 citizens from lawless behavior. This responsibility
10 includes not only the punishment of those individuals
11 who perform the violent acts, but also the prevention
12 of violence wherever possible.

13 This bill is designed to reduce the potential for
14 violence caused by an employer bringing in applicants
15 for employment while a labor dispute is in progress.
16 Such an action has an obvious tendency to incite the
17 employees who are involved in the labor dispute to
18 resort to violence since they are directly confronted
19 with applicants seeking to work in their previous po-
20 sitions. This bill prohibits an employer from re-
21 ceiving job applicants at any place of business or
22 worksite of the employer which is involved in the la-
23 bor dispute with his employees. This prohibition
24 will not substantially impede the employer's legal
25 right to hire substitutes for the employees since he
26 may still receive applications, conduct interviews or
27 have medical examinations performed at sites away
28 from the workplace. The prohibition will serve how-
29 ever to reduce the likelihood of violence and protect
30 both the public and the parties to the labor dispute.

31 The bill provides for a fine of not more than
32 \$10,000 for each day that an employer violates the
33 law by receiving job applicants at the site of a la-
34 bor dispute. Additionally, upon request, a court
35 will issue an injunction ordering the employer to
36 stop the violation. These remedies may be obtained
37 through a civil suit filed by the Attorney General,
38 the Commissioner of Labor or the employees or bar-
39 gaining agent of the employees who are involved in
40 the labor dispute.

41 The bill also extends the recently enacted prohi-
42 bition against carrying dangerous weapons at the site

1 of a labor dispute, to include any sites where the
2 employer actually receives applications for employ-
3 ment or conducts interviews or performs medical exam-
4 inations of job applicants. Violation of this prohi-
5 bition is a Class D crime.

6 Finally, the bill prohibits county and municipal
7 law enforcement officers from wearing official uni-
8 forms or displaying an official badge except when
9 they are in actual public service. This prohibition
10 is necessary to avoid a situation in which a local
11 law enforcement officer may appear to be acting as a
12 public servant when he is actually moonlighting as a
13 private security guard. This will reduce the possi-
14 bility of official law enforcement agencies appearing
15 to "take sides" in a labor dispute.

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