

SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2083

H.P. 1529 House of Representatives, January 19, 1988 Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Reference to the Committee on Labor suggested and ordered printed.

EDWIN H. PERT, Clerk Presented by Representative JOSEPH of Waterville. Cosponsored by Speaker MARTIN of Eagle Lake, President PRAY of Penobscot and Senator ANDREWS of Cumberland.

STATE OF MAINE

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

AN ACT to Promote Safety in the Workplace.

1 Be it enacted by the People of the State of Maine as 2 follows:

26 MRSA c. 3-A is enacted to read:

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- CHAPTER 3-A
- LIABILITY FOR WORKPLACE MACHINERY

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1 §51. Machinery safety devices

 52. Cause of action 1. General rule. An employee who suffers an injury caused in whole or in part by the removal of a warning, guard or other safety device may bring an action for damages against the possessor of the workplace where the injury occurred. 2. Burden of proof. In any action under subsection 1, the injured employee has the burden of showing that the possessor knew or should have known of the removal of the warning, guard or other safety device. 3. Evidence of knowldege or complicity. In an action for damages pursuant to this section, the following rules of evidence apply. A. Evidence that the injured employee knew of the removal of the warning, guard or other safety device is not admissible. B. Evidence that the injured employee was responsible for the removal of the warning, guard 	2 3 4 5 6	It is unlawful to remove, disconnect, alter or cause to have removed, disconnected or altered a warning, guard or other safety device from any machine, tool or other implement located in the workplace.
 9 injury caused in whole or in part by the removal of a 10 warning, guard or other safety device may bring an 11 action for damages against the possessor of the 12 workplace where the injury occurred. 13 2. Burden of proof. In any action under 14 subsection 1, the injured employee has the burden of 15 showing that the possessor knew or should have known 16 of the removal of the warning, guard or other safety 17 device. 18 3. Evidence of knowldege or complicity. In an 19 action for damages pursuant to this section, the 10 following rules of evidence apply. 21 A. Evidence that the injured employee knew of the 22 removal of the warning, guard or other safety 23 device is not admissible. 24 B. Evidence that the injured employee was 	7	<u>§52. Cause of action</u>
 15 showing that the possessor knew or should have known 16 of the removal of the warning, guard or other safety 17 device. 18 3. Evidence of knowldege or complicity. In an 19 action for damages pursuant to this section, the 20 following rules of evidence apply. 21 A. Evidence that the injured employee knew of the 22 removal of the warning, guard or other safety 23 device is not admissible. 24 B. Evidence that the injured employee was 	9 10 11	injury caused in whole or in part by the removal of a warning, guard or other safety device may bring an
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 22 removal of the warning, guard or other safety 23 device is not admissible. 24 B. Evidence that the injured employee was 	19	action for damages pursuant to this section, the
24 B. Evidence that the injured employee was 25 responsible for the removal of the warning guard	22	removal of the warning, guard or other safety
26 or other safety device is admissible unless the 27 trial court determines that the injured employee's 28 actions were at the direction of the possessor. 29 §53. Alternative remedies	25 26 27 28	responsible for the removal of the warning, guard or other safety device is admissible unless the trial court determines that the injured employee's actions were at the direction of the possessor.

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1. Alternative remidies. If the possessor of the premises where the injury occurs is the employer of the injured person, the injured employee has the option of either pursuing the remedies available pursuant to Title 39, or bringing an action at law for full damages without regard to the limitations and immunities of The Workers' Compensation Act.

8 2. Limitation on time. An injured employee has 2
 9 years from the date of injury to exercise this option.

Subrogation. Any benefits paid to the injured employee pursauant to The Workers' Compensation Act prior to the employee's decision to bring an action for damages against the possessor are subject to subrogation by or on behalf of the employer who paid the benefits.

16 §54. Applicability of chapter

17 <u>An action for damages against a possessor of a</u> 18 <u>workplace who is also the employer of the injured</u> 19 <u>person is limited only to employers of 25 or more</u> 20 <u>persons.</u>

STATEMENT OF FACT

This bill provides employees additional causes of action against employers for the removal of warning, guard or safety devices from machinery, tools or other implements.

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