

(Emergency) (After Deadline) SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

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No. 2255

S.P. 866 Approved for Introduction by a Majority of the Legislative Council pursuant to Joint Rule 27.

Referred to the Committee on Labor and ordered printed. Sent down forthwith for concurrence. In House, February 11, 1988, referred to the Committee on Labor and ordered printed, in concurrence.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator DUTREMBLE of York.

Cosponsored by Representative MCHENRY of Madawaska, Representative TAMMARO of Baileyville, Senator ERWIN of Oxford.

STATE OF MAINE

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

AN ACT to Promote the Prompt and Peaceful Settlement of Labor Disputes.

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

Whereas, many Maine workers have been displaced through the hiring of professional strikebreakers; and

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1 Whereas, the practice of hiring professional 2 strikebreakers provokes the displaced workers, creates 3 an atmosphere of tension in the areas affected by the 4 labor dispute and can encourage violence in connection 5 with a labor dispute; and

6 Whereas, this Act is urgently needed to promote 7 the prompt and peaceful settlement of these labor 8 disputes; and

9 Whereas, in the judgment of the Legislature, these 10 facts create an emergency within the meaning of the 11 Constitution of Maine and require the following 12 legislation as immediately necessary for the 13 preservation of the public peace, health and safety; 14 now, therefore,

15 Be it enacted by the People of the State of Maine as 16 follows:

17 Sec. 1. 26 MRSA §851-A is enacted to read:

18 §851-A. Definitions

19 As used in this chapter, unless the context 20 otherwise indicates, the following terms have the 21 following meanings.

22 Professional strikebreaker. "Professional strikebreaker" means any person or 23 entity which customarily and repeatedly in the normal course business offers himself or others for employment 24 of 25 to 26 perform the duties normally assigned to employees 27 involved in a labor dispute, strike or lockout and which duties would not be performed by the person or entity but for the existence of the labor dispute, 28 29 30 strike or lockout.

31 Sec. 2. 26 MRSA §§852 and 853, as enacted by PL 32 1965, c. 189, are repealed and the following enacted 33 in their place:

34 §852. Recruitment of professional strikebreakers 35 prohibited

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A person, partnership, union, agency, firm or corporation, or any officer, employee or agent of such 1 2 an entity, shall not recruit, procure, supply or refer 3 4 any professional strikebreaker for employment. 5 §853. Employment of professional strikebreakers 6 prohibited 7 A person, partnership, union, firm or corporation 8 involved in a labor dispute, strike or lockout shall not, directly or indirectly, employ or retain any professional strikebreaker or contract for or arrange 9 10 11 with any professional strikebreaker to employ the 12 services of those persons. 13 Sec. 3. 26 MRSA §855-A is enacted to read: 14 §855-A. Civil action; injunctive or other relief 15 Any person, corporation or labor organization may 16 bring a civil action for injunctive or other relief to enforce this subchapter. Actions brought under this 17 18 section are not subject to chapter 1, sections 5 to 7. 19 Sec. 4. 26 MRSA §856, as enacted by PL 1965, c. 20 189, is repealed. 21 Sec. 5. 26 MRSA §857 is enacted to read: 22 §857. Exemptions 23 This subchapter does not apply to the employment 24 of: 25 1. Security guards. Security guards during a 26 labor dispute if the security guards perform security guard duties only; 27 28 Special maintenance work. Special maintenance work performed by persons employed by the seller or 29 manufacturer of the equipment maintained or by persons 30 who have performed the maintenance 31 work on the 32 equipment prior to the beginning of the labor dispute, 33 strike or lockout; and

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 <u>3. Permanent employees. Permanent employees of</u> <u>the employer involved in the labor dispute regardless</u> <u>of their usual occupation or duty station.</u>
4 Emergency clause. In view of the emergency 5 cited in the preamble, this Act shall take effect when 6 approved.
7 STATEMENT OF FACT
8 This bill prohibits the recruitment or employment 9 of professional strikebreakers and precisely defines 10 the term "professional strikebreaker" so that the bill 11 applies only to those persons or organizations that 12 have made a practice of supplying replacement workers 13 during labor disputes. In order to fall under the 14 prohibition, a person or organization must meet the 15 following requirements:
16 1. It must supply workers to perform the tasks 17 normally done by striking employees;
18 2. It would not be supplying those workers except 19 for the fact that a labor dispute exists;
20 3. It must customarily and repeatedly have 21 supplied replacement workers previously under similar 22 circumstances; and
23 4. It must rely upon the practice of supplying 24 replacement workers as part of its normal course of 25 business.
If a person or organization meets these 4 requirements, it is providing professional strikebreaking services that are prohibited under this bill. The prohibition may be enforced through a civil action filed by any interested party. The employment of replacement workers as security guards or to perform certain maintenance work is exempt from the prohibition, as is the employment of permanent employees of the employer who choose to work during the strike.
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