



# 114th MAINE LEGISLATURE

# FIRST REGULAR SESSION - 1989

Legislative Document

No. 1513

S.P. 542

In Senate, May 8, 1989

Reference to the Committee on Labor suggested and ordered printed.

O'Breen

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator MATTHEWS of Kennebec. Cosponsored by Senator ESTY of Cumberland, Representative McHENRY of Madawaska and Representative RAND of Portland.

STATE OF MAINE

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

An Act to Encourage Further Negotiations in Labor Disputes.

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

**26 MRSA §595, sub-§4,** as enacted by PL 1987, c. 558, §1, is amended to read:

Hiring off-site permitted. An employer involved in a 4. 7 labor dispute, strike or lockout may perform hiring activities prohibited under subsection 3 at any site other than his the 9 employer's customary plants, facilities, places of business or worksites where a labor dispute, strike or lockout involving the 11 employees of that employer is in progress; provided that during a 6-month period beginning on the date of commencement of the 13 strike, it shall be unlawful for the employer to employ or threaten to employ, or to enter into an agreement, or threaten to 15 enter into an agreement, for the purpose of employing, individuals to whom the employer extends an offer of permanent 17 employment as replacements for employees on strike. Any person hired by the employer during that period to perform duties 19 ordinarily performed by an employee on strike shall be considered a temporary employee only, with no rights to continued employment. During that 6-month period, the employer and the 21 union shall continue discussions and negotiations toward a final 23 settlement of the labor dispute, strike or lockout. If a final arbitrator's decision is issued before the end of the 6-month 25 moratorium on the hiring of new permanent employees, then that decision shall terminate the moratorium as of that date.

> A. The employer must notify the law enforcement agencies of the county and municipality in which these <u>hiring</u> activities will be conducted at least 10 days before commencing <u>hiring</u> <u>these</u> activities.

B. No employee of the employer conducting hiring activities under this subsection and who is involved in the labor dispute, strike or lockout may picket, congregate or in any way protest the hiring activity of the employer within 200 feet of the building or structure at which such activities are taking place. Violation of this paragraph is a Class E crime.

## STATEMENT OF FACT

Although union employees have a right to strike under
federal and state law, that right is diminished if employers may hire permanent replacement employees as soon as the regular
employees go on strike. Employers currently may do this under a 1938 Supreme Court decision in <u>Mackay Radio and Telegraph Co. v.</u>
<u>NLRB</u>. This bill would eliminate this provision of the law. Similar legislation has been introduced at the federal level by Congressman Joseph Brennan.

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