

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 157

S.P. 84

Received by the Secretary, January 22, 1991

Reference to the Committee on Labor suggested and ordered printed.

Jay J O'Brien

JOY J. O'BRIEN
Secretary of the Senate

Presented by President PRAY of Penobscot.

Cosponsored by Representative HEESCHEN of Wilton, Representative PINEAU of Jay and Representative CLARK of Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Amend the Severance Pay Laws.

(EMERGENCY)

Printed on recycled paper

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

Whereas, a recent court decision has construed the severance pay laws to exclude coverage of long-term employees after a corporate buy out; and

Whereas, this decision is contrary to the legislative intent behind the severance pay laws and creates harsh results for long-term employees of covered establishments by denying them severance pay to mitigate the impact of a plant closing; and

Whereas, it is urgent that the proper application of the severance pay laws be recognized and restored as soon as possible to protect Maine employees; and

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

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

Sec. 1. 26 MRSA §625-B, sub-§3, ¶D, as enacted by PL 1979, c. 663, §157, is amended to read:

D. That employee has been employed by the employer for less than 3 years. In determining the duration of an employee's employment under this paragraph, any period of employment at the covered establishment for a prior owner or operator of the establishment is deemed to be employment with the current owner or operator and is added to any period of employment with the current owner or operator.

Sec. 2. Retroactivity. This Act is retroactive to October 1, 1975 and applies to all cases pending on the effective date of this Act.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

STATEMENT OF FACT

This bill clarifies that severance pay is payable to employees at a facility who have worked at least 3 years at a facility and would otherwise be eligible for severance pay following a termination or relocation. The bill is retroactive to October 1, 1975, the date on which the severance pay laws took effect and is fully applicable to pending cases.

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2 The bill clarifies the original intent of the severance pay
3 laws, as interpreted in Robbins v. Stowell Wood Products, Inc.,
4 No. CV-83-69 (Superior Court, Oxford County, January 29, 1985)
5 and Bechard v. Wolverine World Wide, Inc., No. CV-87-11 (Superior
6 Court, Androscoggin County, February 9, 1988). Continued
7 reliance upon these courts' interpretation of the severance pay
8 laws has been cast in doubt by the opposing result reached in
9 Director, Bureau of Labor Standards v. Diamond Brands, Inc., No.
10 CV-88-453 (Superior Court, Kennebec County, July 31, 1990). In
11 these cases, the issue raised was whether an employer who simply
12 purchased the assets of its predecessor less than 3 years before
13 a plant closing was exempt from paying severance pay. This bill
14 ratifies the interpretation in Robbins and Bechard that such
15 employers are not exempt from paying severance pay to employees
16 who worked at least 3 years at the covered establishment for the
17 employer and its predecessors.
18

19 This bill reasserts that a successor owner of a facility
20 subject to the severance pay laws must assume any severance pay
21 obligations of the prior owner. Under the bill, any period of
22 employment at the covered facility, for any owner, is added to
23 the period of employment with the current facility owner. This
24 ensures that an employee's employment period is calculated from
25 the employee's perspective and not that of a successor owner of
26 the facility at which the employee works.

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