

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 923

H.P. 649

House of Representatives, March 1, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska.

Cosponsored by Representative PINEAU of Jay, Representative CLARK of Millinocket,  
Representative McKEEN of Windham and Senator CONLEY of Cumberland.

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STATE OF MAINE

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

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**An Act Concerning Unemployment Benefits During Lockouts.**

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

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4       26 MRSA §1193, sub-§4, as amended by PL 1985, c. 737, Pt. A, §72, is repealed and the following enacted in its place:

6       4. Stoppage of work. For any week with respect to which  
8       the deputy, after notification by the Director of Unemployment  
10       Compensation under section 1194, subsection 2, finds that the  
12       individual's total or partial unemployment is due to a stoppage  
14       of work that exists because of a labor dispute at the factory,  
16       establishment or other premises at which the individual is or was  
18       employed, or there would have been a stoppage of work had  
20       substantially normal operations not been maintained with other  
22       personnel previously and currently employed by the same employer  
24       and any other additional personnel that the employer may hire to  
26       perform tasks not previously done by the striking employees.

18       If in any case separate branches of work, which are commonly  
20       conducted as separate businesses in separate premises, are  
22       conducted in separate departments of the same premises, each  
24       department, for the purposes of this subsection, is deemed a  
26       separate factory, establishment or other premises.

24       This subsection does not apply if it is shown to the satisfaction  
26       of the deputy that the individual:

26       A. Is not participating in, financing or directly  
28       interested in the labor dispute that caused the stoppage of  
30       work;

30       B. Does not belong to a grade or class of workers of which,  
32       immediately before the commencement of the stoppage of work,  
34       there were members employed at the premises at which the  
36       stoppage occurs, any of whom are participating in, financing  
38       or directly interested in the dispute;

36       C. Has obtained employment by an employer after the  
38       commencement of the stoppage of work and has earned at least  
40       8 times the employee's weekly benefit amount or has been  
42       employed by an employer for 5 full weeks;

42       D. Became unemployed because of a strike or lockout caused  
44       by:

44               (1) An employer's willful failure to observe the terms  
46               of the safety and health section of a union contract;

46               (2) An employer's willful failure to comply in a  
48               timely fashion with an official citation for a  
50               violation of federal or state laws involving  
              occupational safety and health; or

2                   (3) The quitting of labor by an employee or employees  
4                   in good faith because of an abnormally dangerous  
6                   condition for work at the place of employment of that  
                    employee or employees.

8                   This paragraph does not apply if the strike or lockout  
10                   extends past the time of the employer's compliance with the  
12                   safety and health section of the union contract, the  
14                   employer's compliance with the official citation or the  
                    finding that an abnormally dangerous condition does not  
                    exist by a federal or state official empowered to issue  
                    official citations for violation of federal or state laws  
                    involving occupational safety and health; or

16                   E. Became unemployed because of a lockout. For the  
18                   purposes of this paragraph, a lockout exists when an  
20                   employer fails to provide employment to the employer's  
22                   employees because of a labor dispute, whether or not the  
                    employees are directly or indirectly interested in the labor  
                    dispute, either by physically closing the premises at which  
                    the employees are employed or informing the employees that  
                    there will be no work until the labor dispute has ended;

26  
28  
**STATEMENT OF FACT**

30                   This bill expands the eligibility to receive unemployment  
32                   benefits of persons unemployed due to a labor dispute. Current  
34                   law prevents a person from receiving unemployment benefits if the  
36                   person is unemployed due to a stoppage of work caused by a labor  
38                   dispute. The term "labor dispute" includes both  
40                   employee-initiated strikes and employer-initiated lockouts of  
42                   employees. In the case of a lockout, employees are willing to  
44                   work, but are prevented from doing so solely by their employer's  
                    refusal to allow them to work. Employees who are willing to work  
                    but are unemployed through no fault of their own would be allowed  
                    to receive unemployment benefits if they are prevented from  
                    working due to an employer-initiated lockout. Employees who are  
                    unemployed due to an employee-initiated strike continue to be  
                    disqualified from receiving benefits in most circumstances as  
                    under current law.