

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

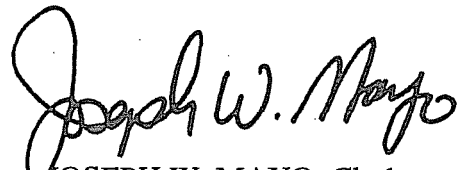
No. 970

H.P. 719

House of Representatives, March 22, 1993

An Act to Repeal the Child Labor Laws.

Reference to the Committee on Labor suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative CLARK of Millinocket.

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

2 Sec. 1. 14 MRSA §1522, ¶K, as enacted by PL 1991, c. 9, Pt.
4 G, §2, is repealed.

6 Sec. 2. 20-A MRSA §5054, as enacted by PL 1989, c. 415, §26
8 is repealed and the following enacted in its place:

10 **§5054. Employment of truants prohibited**

12 1. Strict liability. A firm or corporation, or agent or
14 manager of a firm or corporation, who hires or otherwise engages
16 a student who is habitually truant as defined in this subchapter
18 without a release from the student's supervising superintendent
20 of schools is subject to the following forfeiture or civil
22 penalty payable to the State and recoverable in a civil action:

24 A. For the first violation or a violation not subject to an
26 enhanced sanction under paragraph B or C, a fine of not less
28 than \$250 nor more than \$5,000;

30 B. For a 2nd violation occurring within 3 years of a prior
32 adjudication, a fine of not less than \$500 nor more than
34 \$5,000; or

36 C. For a subsequent violation occurring within 3 years of 2
38 or more prior adjudications, a penalty of not less than
40 \$2,000 nor more than \$10, 000.

42 2. Adjudication. As used in this section, a prior
44 adjudication includes a consent decree that contains an admission
46 of a violation. The dates of prior adjudications for a violation
48 or combination of violations must precede the commission of the
50 violation being enhanced, although prior adjudications involving
52 a combination may have occurred on the same day. The date of an
adjudication is the date the forfeiture or penalty is adjudged or
the consent decree allowed, even though an appeal was taken.

 Sec. 3. 26 MRSA c. 7, sub-c. IV, as amended, is repealed.

 Sec. 4. 26 MRSA §622, as amended by PL 1975, c. 113, §1, is
further amended to read:

§622. Records

 A true record shall ~~must~~ be kept showing the date and amount
paid to each person engaged in any of the above occupations.
There shall ~~must~~ be kept a daily record of the time worked by
such a person, ~~excepting such~~ except employees as ~~are~~ paid a
fixed weekly salary regardless of the number of hours worked, ~~the~~
~~same to.~~ That record must be accessible at any reasonable hour
to any representative of the department. ~~Nothing contained in~~

sections--621--to--623--shall--excuse--any--employer--mentioned--in
section-702--from--keeping--the--records--required--by--said--section-702.

Sec. 5. 39-A MRSA §408, as enacted by PL 1991, c. 885, Pt. A,
§8 and affected by §§9 to 11, is amended to read:

§408. Waiver of right of action; minors

Except as provided in subsection 2, an employee of an employer who has secured the payment of compensation as provided in sections 401 to 407 is deemed to have waived the employee's right of action at common law and under section 104 to recover damages for the injuries sustained by the employee.

1. **Legally employed minors.** A minor is deemed sui juris for the purpose of this Act if the minor's employer was not in violation of ~~Title-26, section-771, 772 or 773~~ the federal child labor laws at the time of the minor's injury. No other person has any cause of action or right to compensation for an injury to that minor employee except as provided in this section.

2. **Illegally employed minors.** A minor is not deemed to have waived the minor's right of action at common law and under section 104 if the minor's employer was in violation of ~~Title-26, section-771, 772 or 773~~ the federal child labor laws at the time of the minor's injury.

A. The minor employee, the minor's parent or guardian or any other person, as permitted by common law or statute, may file a civil action permitted under this subsection.

B. The minor employee is entitled to compensation under this Act in addition to any right of action permitted under this subsection.

C. If the employer is self-insured for liability under this Act, any award received by the minor in an action permitted under this subsection must be reduced by the amount of compensation received under this Act.

D. If the employer is insured for liability under this Act, the employer is considered a 3rd party under section 107, and the employer's insurer is entitled to all rights of subrogation, contribution or other rights granted to an employer under section 107.

STATEMENT OF FACT

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4 The purpose of this bill is to return to parents the legal
6 authority to determine whether and when their children may work.
8 Federal law prohibits "oppressive child labor" by limiting the
 work hours and occupations of minors of certain ages. The
 State's child labor laws expand the restrictions imposed by
 federal law. This bill repeals the state laws restricting child
 labor.