

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 485

H.P. 360

House of Representatives, February 1, 2005

An Act To Prohibit Permanent Replacement Workers

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PINEAU of Jay.

Under suspension of the rules, cosponsored by Senator BRYANT of Oxford and Representatives: ADAMS of Portland, BEAUDETTE of Biddeford, BLANCHETTE of Bangor, BRYANT of Windham, BURNS of Berwick, CLARK of Millinocket, DAVIS of Falmouth, EBERLE of South Portland, FISHER of Brewer, GERZOFISKY of Brunswick, HUTTON of Bowdoinham, JACKSON of Fort Kent, JENNINGS of Leeds, KOFFMAN of Bar Harbor, MARLEY of Portland, MILLER of Somerville, NORTON of Bangor, O'BRIEN of Lewiston, PARADIS of Frenchville, PATRICK of Rumford, PELLETIER-SIMPSON of Auburn, SAMPSON of Auburn, SMITH of Van Buren, TWOMEY of Biddeford, WALCOTT of Lewiston, WATSON of Bath, WEBSTER of Freeport, WHEELER of Kittery, Senators: DIAMOND of Cumberland, GAGNON of Kennebec.

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

4 **Sec. 1. 26 MRSA §852-A** is enacted to read:

6 **§852-A. Permanent replacement workers prohibited**

8 An employer may not deny a former employee who left
10 employment due to a labor strike or lockout the opportunity to
12 return to the position held by that employee immediately prior to
14 the employee's leaving employment if the reason for the denial is
16 that the employer hired a new employee to fill that position
18 during the labor strike or lockout.

20 **SUMMARY**

22 This bill prohibits an employer from refusing to rehire an
24 employee who was on strike or was locked out of employment if the
reason for the refusal is that a replacement employee has been
hired during the strike or lockout. Current federal case law
allowing in some instances replacement workers to permanently
replace workers who were on strike or were locked out is based on
dicta from a case decided by the United States Supreme Court in
1938, NLRB v. Mackay Radio & Tel. Co., 304 U.S. 333.