

MAINE STATE LEGISLATURE

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LABOR

Majority

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "B" to H.P. 873, L.D. 1276, Bill, "An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage Is Set"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 26 MRSA §872-A is enacted to read:

§872-A. False representation for purpose of hiring foreign workers

1. False representation prohibited. An employer may not make a statement or representation the employer knows is false to the United States Department of Labor; the United States Department of Homeland Security, United States Citizenship and Immigration Services; the Department of Labor; or any other governmental entity in an application for permission to hire a worker who has been classified under 8 United States Code, Section 1101(a)(15)(H)(ii)(b) and has been granted permission to work temporarily in the United States, or in any documentation or statement in support of or in conjunction with that application.

2. Fines. An employer who violates subsection 1 is subject to a fine as follows:

A. For a first violation, a fine of not less than \$1,000 nor more than \$5,000;

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2 B. For a 2nd violation occurring within 3 years of a prior
3 violation, a fine of not less than \$5,000 nor more than
4 \$20,000; and

5 C. For a 3rd and subsequent violation occurring within 3
6 years of 2 or more prior violations, a fine of not less than
7 \$10,000 nor more than \$50,000.

8
9 3. Enforcement. This section is enforceable by the Bureau
10 of Labor Standards. The director may adopt rules that are
11 consistent with this section and considered appropriate or
12 necessary for the proper administration and enforcement of this
13 section. Rules adopted pursuant to this section are routine
14 technical rules as defined in Title 5, chapter 375, subchapter
15 2-A.'

18 SUMMARY

19
20 This amendment adds a provision that prohibits an employer
21 from making a false representation to a government entity in an
22 application to hire a foreign worker through a procedure commonly
23 known as an "H-2B visa," or in any supporting documentation or
24 statements. The amendment sets fines for violations as follows:
25 \$1,000 but not more than \$5,000 for a first violation; \$5,000 but
26 not more than \$20,000 for a 2nd offense within 3 years; and
27 \$10,000 but not more than \$50,000 for a 3rd or subsequent
28 violation within 3 years of 2 or more prior violations. The
29 amendment also grants enforcement authority to the Department of
30 Labor, Bureau of Labor Standards and authority to adopt routine
31 technical rules to carry out its purposes.

32
33 **FISCAL NOTE REQUIRED**
34 **(See attached)**
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36
37
38



Approved: 05/18/05 *mac*

122nd MAINE LEGISLATURE

LD 1276

LR 0206(04)

An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage is Set

Fiscal Note for Bill as Amended by Committee Amendment 'B'

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Minor revenue increase - General Fund

Fiscal Detail and Notes

Additional costs to the Bureau of Labor Standards within the Department of Labor associated with rulemaking and conducting investigations upon complaint can be absorbed within existing budgeted resources. Additional revenue to the General Fund associated with fines assessed for violations can not be determined at this time but is not expected to be significant.