

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 1276

H.P. 873

House of Representatives, March 15, 2005

### **An Act To Prohibit the Use of Foreign Labor Unless a Federal Prevailing Wage Is Set**

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Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative JACKSON of Fort Kent.  
Cosponsored by Senator MARTIN of Aroostook and  
Representatives: CLARK of Millinocket, DRISCOLL of Westbrook, DUGAY of Cherryfield,  
HUTTON of Bowdoinham, PINEAU of Jay, SMITH of Van Buren, TUTTLE of Sanford,  
Senator: BARTLETT of Cumberland.

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

4 **Sec. 1. 26 MRSA §872 is enacted to read:**

6 **§872. Prevailing wage required for certification of  
unavailability of domestic workers**

8 The Commissioner of Labor may not certify to the United  
10 States Department of Labor that no citizens of the United States  
12 are qualified for or willing to fill a job opening in a forestry  
14 occupation, for the purposes of allowing an employer to fill that  
job opening with a person who has been classified under 8 United  
States Code, Section 1101(a)(15)(H)(ii)(b) and granted permission  
to work temporarily in the United States, if:

16 1. Use own equipment. The person that the employer seeks  
18 to hire is to use the person's own equipment to perform the job;  
and

20 2. No federal prevailing wage. The United States  
22 Department of Labor, Division of Foreign Labor Certification has  
24 not established a Service Contract Act prevailing wage for  
persons performing that occupation with their own equipment.

26 **SUMMARY**

28 This bill prohibits the Department of Labor from certifying  
30 to the United States Department of Labor that no U.S. citizens  
32 are qualified for or willing to fill a job opening in a forestry  
34 occupation, for the purpose of allowing an employer to hire a  
36 foreign worker to fill that job opening under what is commonly  
known as an "H-2B visa," if the job would require the worker to  
use the worker's own equipment and if the U.S. Department of  
Labor's Division of Foreign Labor Certification has not  
established a prevailing wage for workers performing that job  
using the workers' own equipment.