

MAINE STATE LEGISLATURE

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R.O.S.

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Date: 4/24/04
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(Filing No. H-1040)

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Labor

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
SECOND REGULAR SESSION**

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COMMITTEE AMENDMENT "A" to H.P. 1501, L.D. 2109, "Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor"

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Amend the resolve in section 1 in the last line (page 1, line 18 in L.D.) by striking out the following: "authorized." and inserting in its place the following: 'authorized only if:'

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Further amend the resolve by inserting after section 1 the following:

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1. In section I(G) it is clarified that "logging equipment" means harvesting equipment used directly in the cutting and transporting to roadside of logs and the production of wood chips in the field and that equipment used for construction of logging roads or for transporting logs or other wood products off-site or on roadways or in ancillary activities such as recordkeeping and equipment repair is not "logging equipment" as used in the rule;

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2. In section III(C) it is clarified that the form requires that the employer or a representative of the employer certify that any information provided on the form and any additional documents provided are true and accurate; that failure to provide full and accurate disclosure constitutes a civil violation pursuant to the Maine Revised Statutes, Title 26, section 872; and that a false statement may also be subject to criminal prosecution under applicable statutes, including but not limited to Title 17-A, section 453, which governs unsworn falsification;

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3. In section IV(B) it is clarified that if, at the time the notice outlined in section III is filed, the employer has not paid the tax for the current tax year because the tax has not been assessed or is not yet due, the employer shall provide documentation that demonstrates that the employer has paid the tax in the past and will pay any taxes due on the subject equipment; that this documentation may include proof of taxes paid in a prior period, reports filed with the taxing authority and assessments received for the current period; and that the employer shall provide proof of payment of the taxes when the taxes are paid;

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4. Section IV(B)(1) is deleted from the rule; and

COMMITTEE AMENDMENT

R.O.S.

COMMITTEE AMENDMENT "A" to H.P. 1501, L.D. 2109

1 5. Any technical changes to the rule necessary to accomplish the changes described
2 in this resolve are made.

3 The Department of Labor is not required to hold hearings or undertake further
4 proceedings prior to final adoption of the rule in accordance with this section.'

5 **SUMMARY**

6 This amendment authorizes the Department of Labor to finally adopt portions of
7 Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign
8 Laborers to Operate Logging Equipment, a provisionally adopted major substantive rule
9 that has been submitted to the Legislature for review pursuant to the Maine Revised
10 Statutes, Title 5, chapter 375, as long as certain changes are made relating to the
11 definition of "logging equipment" and to statutory cross-references. The amendment
12 requires changes to clarify that "logging equipment" means harvesting equipment
13 employed in certain uses and that the only transport equipment that meets the definition
14 of "logging equipment" is equipment that may be used on-site to transport logs to
15 roadside. The amendment also requires changes to remove language describing
16 violations and specifying fines and classes of crimes and to replace it with statutory cross-
17 references to the relevant civil and criminal violation provisions. Finally, the amendment
18 requires changes to correct a typographical omission by inserting the word "proof" in
19 section IV(B) of the rule and to remove section IV(B)(1) from the rule.

FISCAL NOTE REQUIRED
(See Attached)

COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 2109

LR 3277(02)

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund

Correctional and Judicial Impact Statements

Clarifies a civil violation and Class D crime

The collection of additional fines may increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

Additional costs to the Bureau of Labor Standards within the Department of Labor associated with rulemaking can be absorbed within existing budgeted resources.