

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1087

H.P. 805

House of Representatives, March 6, 2007

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### **An Act To Facilitate Debarment of State Contractors with Serious or Repeated Labor Violations**

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Submitted by the Department of Labor pursuant to Joint Rule 204.  
Reference to the Committee on Labor suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative TUTTLE of Sanford.  
Cosponsored by Senator STRIMLING of Cumberland and  
Representatives: BLANCHETTE of Bangor, DRISCOLL of Westbrook, FISHER of Brewer,  
GERZOFKY of Brunswick, HANLEY of Gardiner, JACKSON of Allagash, PILON of Saco,  
Senator: BRYANT of Oxford.

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

2 **Sec. 1. 26 MRSA §1402**, as amended by PL 1999, c. 57, Pt. B, §§6 and 7, is  
3 further amended to read:

4 **§1402. Debarment from state contracts**

5 **1. Definitions.** As used in this section, unless the context indicates otherwise, the  
6 following terms have the following ~~meaning~~ meanings.

7 A. "Repeated violation" for purposes of subsection 2 means a violation of any legal  
8 requirement under the United States Code, Title 29, Chapter 15, ~~where~~ when a  
9 previous violation of the same requirement was found ~~which~~ that involved a  
10 substantially similar hazard. "Repeated violation" for purposes of subsection 3 means  
11 a violation of any legal requirement under this Title or under the federal Davis-Bacon  
12 Act, 40 United States Code, Sections 3141 to 3148 (2006) and related acts, when a  
13 previous violation was found that involved a substantially similar requirement.

14 B. "Serious violation" for purposes of subsection 2 means a violation ~~where~~ in  
15 which there is a substantial probability that death or serious physical harm could  
16 result from a condition ~~which~~ that exists, or from one or more practices, means,  
17 methods, operations or processes ~~which~~ that have been adopted or are in use, in that  
18 place of employment, unless the employer did not, and could not with the exercise of  
19 reasonable diligence, know of the presence of the violation. "Serious violation" for  
20 purposes of subsection 3 means a violation involving more than \$500 in unpaid  
21 wages and benefits or taxes for any individual or more than \$2,000 in unpaid wages  
22 and benefits or taxes for any group of workers.

23 C. "Willful violation" means a violation committed intentionally or knowingly with  
24 an intentional disregard of, or plain indifference to, legal requirements under the  
25 United States Code, Title 29, Chapter 15.

26 **2. Debarment for safety and health violations.** The Department of Labor ~~shall~~  
27 may, after hearing, debar from participation in state contracts ~~for 2 years~~ any person,  
28 partnership, corporation or other public or private entity found to have committed a  
29 serious, willful violation or serious, repeated violations of a standard under the United  
30 States Occupational Safety and Health Act of 1970, United States Code, Title 29, Chapter  
31 15, and either the time for filing an appeal of the determination of that violation has  
32 expired or the appeals process has been exhausted.

33 **3. Debarment for labor standards.** The Department of Labor may, after hearing,  
34 debar from participation in state contracts any person, partnership, corporation or other  
35 public or private entity found to have committed a serious or repeated violation under this  
36 Title or under the federal Davis-Bacon Act, 40 United States Code, Sections 3141 to 3148  
37 (2006) and related acts.

38 **4. Length of debarment.** The first debarment under this section may be for no more  
39 than 3 years. Any subsequent debarment may be for no more than 5 years.

1       **5. Removal of debarment order.** Any person, partnership, corporation or other  
2       public or private entity debarred under this section may petition for removal of the order  
3       of debarment after 1/3 of the debarment period has been completed.

4       **6. Rules.** The Department of Labor may adopt rules to implement this section.  
5       Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
6       chapter 375, subchapter 2-A.

7       The department may make an exception to this section if the condition giving rise to  
8       the violation has been abated.

9

#### **SUMMARY**

10       This bill broadens the Department of Labor's authority to debar contractors seeking  
11       state contracts if these contractors have serious or repeated violations of state labor laws  
12       or certain federal laws.