

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 154

H.P. 133

House of Representatives, January 15, 2009

### **An Act To Enhance the Safety of Forestry Workers and Contracted Farm Workers**

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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 BLODGETT of Augusta.  
Cosponsored by Senator: JACKSON of Aroostook.

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

2 **Sec. 1. 26 MRSA §641**, as enacted by PL 2003, c. 616, §1, is amended to read:

3 **§641. Rule of construction**

4 This subchapter must be liberally construed in light of the purposes of the law to  
5 ensure a safe working environment and safe transportation for forestry workers and  
6 migrant and seasonal farm workers and to prevent unfair competition in the marketplace  
7 by businesses whose practices would undermine safety and other employment standards.

8 **Sec. 2. 26 MRSA §642**, as enacted by PL 2003, c. 616, §1, is amended to read:

9 **§642. Definitions**

10 As used in this subchapter, unless the context otherwise indicates, the following  
11 terms have the following meanings.

12 **1. Bureau.** "Bureau" means the Department of Labor, Bureau of Labor Standards.

13 **2. Code of Federal Regulations.** "Code of Federal Regulations" means the Code of  
14 Federal Regulations as of January 1, ~~2003~~ 2008.

15 **3. Employer.** "Employer" means ~~a person or entity that suffers or permits any~~  
16 ~~forestry worker to work. :~~

17 A. With regard to a forestry worker, a person or entity that suffers or permits any  
18 forestry worker to work; and

19 B. With regard to a migrant and seasonal farm worker, a farm labor contractor.

20 **3-A. Farm labor contractor.** "Farm labor contractor" means a person or entity that  
21 employs migrant and seasonal farm workers and that is required to register with the  
22 United States Department of Labor under the federal Migrant and Seasonal Agricultural  
23 Worker Protection Act.

24 **4. Forestry worker.** "Forestry worker" ~~or "worker"~~ means a person employed on a  
25 temporary or seasonal basis to perform reforestation activities, including, but not limited  
26 to, precommercial thinning, tree planting and brush clearing.

27 **5. Migrant and seasonal farm worker.** "Migrant and seasonal farm worker" means  
28 a person employed by a farm labor contractor on a temporary or seasonal basis to perform  
29 farm labor.

30 **6. Worker.** "Worker" means a forestry worker or migrant and seasonal farm  
31 worker.

32 **Sec. 3. 26 MRSA §643, sub-§1**, as enacted by PL 2003, c. 616, §1, is amended to  
33 read:

1           **1. Requirement.** An employer shall provide safe transportation for forestry workers  
2 between the workers' lodgings and work sites each day at no cost to the workers.

3           A. A vehicle used to transport workers must meet the standards set forth in 29 Code  
4 of Federal Regulations, Section 500.105, regardless of the number of miles traveled  
5 or the type of vehicle used, and must include a working seat belt for each worker  
6 being transported. Any vehicle used to transport forestry workers may not have any  
7 apparatus attached to the rear of the vehicle that interferes with the operation of the  
8 rear door. Equipment or any other materials that interfere with the operation of any  
9 doors or windows may not be attached to or stored in the vehicle. The number of  
10 occupants in any vehicle, other than a bus, may not exceed 11 at any time. In the  
11 case of a 15-passenger van, compliance with this standard must be achieved by  
12 removal of the seating immediately behind the rear axle. Attachments are not  
13 allowed on the roofs of vans for the purpose of carrying gear.

14           B. Any person driving a vehicle used to transport workers must meet the driver  
15 qualifications and must follow the standards for driving set forth in 29 Code of  
16 Federal Regulations, Section 500.105.

17           C. Each vehicle used to transport workers must be equipped with a first aid kit  
18 consistent with 29 Code of Federal Regulations, section 1910.266, Appendix A and  
19 communications equipment capable of providing the most immediate access to  
20 emergency medical services. A vehicle equipped with such equipment and a driver  
21 must be available at or near the work site at all times during the work day.  
22 Emergency action plans, written in easily understandable English and in the language  
23 of the forestry worker crews, must be developed and maintained for each job site.  
24 Plans must include information on how to transport injured workers to the nearest  
25 emergency facility and how to direct emergency workers to the location of an injured  
26 worker who can not be moved.

27           D. An employer must make reasonable efforts to limit the driving hours of any one  
28 driver in a day and to reduce driver fatigue generally. Hours of operation must also  
29 comply with the limitations set forth in 29 Code of Federal Regulations, Section  
30 500.105. Except in an emergency, a worker who engages in reforestation or  
31 agricultural labor activities may not operate a vehicle more than 2 hours per day.

32           For purposes of this paragraph, "agricultural labor" has the same meaning as in  
33 section 1043, subsection 1.

34           E. A vehicle used to transport workers must be insured for at least the same  
35 minimum liability insurance as is required by the State.

36           F. Each employer shall provide to each worker and to the Department of Labor a  
37 copy of off-road driving safety standards consistent with those promoted in relevant  
38 safe driver training courses.

39           G. Each contract regarding or resulting in the employment of any forestry worker  
40 must include a provision requiring the contractor who employs forestry such workers  
41 to abide by this subchapter.

42           **Sec. 4. 26 MRSA §643-A** is enacted to read:

1        **§643-A. First aid requirements**

2        An employer must comply with the standards for first aid set forth in 29 Code of  
3        Federal Regulations, Section 1910.151 (2008).

4        **Sec. 5. 26 MRSA §643-B** is enacted to read:

5        **§643-B. Farm labor contractor registration**

6        Each farm labor contractor employing migrant and seasonal farm workers shall file a  
7        copy of its federal registration under the federal Migrant and Seasonal Agricultural  
8        Worker Protection Act with the bureau. The filing must include in-state contact  
9        information for the farm labor contractor or the farm labor contractor's representative.

10       **Sec. 6. 26 MRSA §644, first ¶**, as enacted by PL 2003, c. 616, §1, is amended to  
11       read:

12       An employer or other person may not intimidate, threaten, restrain, coerce, blacklist,  
13       discharge, fail to recruit, fail to rehire or in any manner discriminate or retaliate against a  
14       forestry worker because the worker has:

15       **Sec. 7. 26 MRSA §644, sub-§3**, as enacted by PL 2003, c. 616, §1, is amended to  
16       read:

17       **3. Discussions.** Discussed any matter that is a subject of or is related in any way to  
18       this subchapter, or any other lawful matter, with any other person, including, but not  
19       limited to, that forestry worker's employer or the employer's agent or employee; or

20       **Sec. 8. 26 MRSA §645**, as enacted by PL 2003, c. 616, §1, is amended to read:

21       **§645. Waiver of rights prohibited**

22       Any agreement by a forestry worker purporting to waive or modify any of the  
23       worker's rights under this subchapter is void as contrary to public policy.

24       **Sec. 9. 26 MRSA §646, sub-§1**, as enacted by PL 2003, c. 616, §1, is amended to  
25       read:

26       **1. Joint and several liability.** If more than one person or entity is an employer of  
27       the same forestry worker or group of workers, each such person or entity is jointly and  
28       severally liable for all violations of this subchapter.

29       **Sec. 10. 26 MRSA §646, sub-§2**, as enacted by PL 2003, c. 616, §1, is amended  
30       to read:

31       **2. Enforcement by bureau.** The bureau may inspect vehicles subject to this  
32       subchapter and used to transport forestry workers and may enforce compliance with this  
33       subchapter in accordance with this section.

34       A. A duly designated officer of the bureau may enter into any structure or upon any  
35       real property in or on which a vehicle subject to this subchapter and used to transport

1 forestry workers is found in accordance with the process established in section 587 in  
2 order to determine compliance with this subchapter and any rules adopted to  
3 implement this subchapter.

4 B. Upon the written request of the bureau, the Department of Transportation and  
5 the Department of Public Safety shall provide any technical services that may be  
6 required by the bureau to assist with inspections and enforcement of this subchapter.

7 **Sec. 11. Maine Revised Statutes headnote amended; revision clause.** In  
8 the Maine Revised Statutes, Title 26, chapter 7, subchapter 2-A, in the subchapter  
9 headnote, the words "employment standards in the forestry industry" are amended to read  
10 "employment standards in the forestry industry and farming" and the Revisor of Statutes  
11 shall implement this revision when updating, publishing or republishing the statutes.

12 **SUMMARY**

13 This bill adds migrant and seasonal farm workers to the law providing protections for  
14 forestry workers. Farm labor contractors who are required to register under the federal  
15 Migrant and Seasonal Agricultural Worker Protection Act are required to file their federal  
16 registration with the state Department of Labor, listing a contact within the State. They  
17 are also required to provide first aid training, first aid kits and safe transportation for their  
18 workers.