

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1492

H.P. 1049

House of Representatives, June 10, 2009

An Act To Improve Opportunity in the Maine Woods

(EMERGENCY)

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARTIN of Eagle Lake. (GOVERNOR'S BILL)
Cosponsored by Senator JACKSON of Aroostook.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** workers in the Maine woods and the wood industry in Maine face
4 significant economic obstacles; and

5 **Whereas,** a recent study by the Office of the Attorney General of logging industry
6 conditions in northern and eastern Maine found "clear evidence of market concentration"
7 but was unable, due to lack of access to information, to determine whether market
8 concentration resulted in the payment of below-market rates for services; and

9 **Whereas,** the rate-setting law designed to counteract the effects of market
10 concentration and provide increased opportunities for workers to make a living in the
11 Maine woods is currently having an adverse impact on those opportunities; and

12 **Whereas,** federal and state officials are beginning vigorous efforts to enforce federal
13 and state laws related to the use of foreign labor and foreign labor certification to ensure
14 that Maine workers have a fair opportunity to fill jobs in the Maine woods before foreign
15 labor is brought into the country; and

16 **Whereas,** those efforts include in-person verification of equipment ownership by
17 employers of bond workers to enforce the Maine Revised Statutes, Title 26, section 872;
18 and

19 **Whereas,** this legislation triples the fines applicable for violations of the Maine
20 Revised Statutes, Title 26, section 872; and

21 **Whereas,** the United States Department of Labor is undertaking a review of
22 contractor practices to investigate allegations that contractors are not following federal
23 law in their efforts to obtain foreign labor to work in the Maine woods and may deny or
24 revoke authorization to use foreign labor to those contractors who are not in compliance
25 with federal law; and

26 **Whereas,** the Maine Department of Labor is requesting that the United States
27 Department of Labor establish rates to allow owners to obtain fair pay for equipment in
28 the Maine woods; and

29 **Whereas,** the Governor is committed to keeping up pressure on the United States
30 Department of Labor as well as overseeing the efforts of the Maine Department of Labor
31 to implement these enhanced enforcement efforts for the purpose of improving economic
32 opportunity for workers in the Maine woods; and

33 **Whereas,** changes are needed immediately to improve economic opportunity in the
34 current logging season; and

35 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
36 the meaning of the Constitution of Maine and require the following legislation as

1 immediately necessary for the preservation of the public peace, health and safety; now,
2 therefore,

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

4 **Sec. 1. 26 MRSA §872, sub-§2**, as enacted by PL 2005, c. 461, §1, is amended to
5 read:

6 **2. Proof of ownership required.** An employer in this State who employs a bond
7 worker in a logging occupation shall provide proof of the employer's ownership of any
8 logging equipment used by that worker in the course of employment, including proof of
9 ownership of at least one piece of logging equipment for every 2 bond workers employed
10 by the employer in a logging occupation. The employer shall provide proof of ownership
11 as required by this subsection on a form provided by the Commissioner of Labor. The
12 proof required by this subsection must include, but not be limited to, a receipt for
13 payment for the equipment purchased in a bona fide transaction and documentation of
14 payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the
15 year in which the bond worker is employed by the employer. Proof of ownership must be
16 carried in the equipment and, upon request by the department, the operator of equipment
17 subject to this section shall provide proof of ownership.

18 **Sec. 2. 26 MRSA §872, sub-§5**, as enacted by PL 2005, c. 461, §1, is amended to
19 read:

20 **5. Violation.** An employer who violates this section commits a civil violation for
21 which a fine of not less than ~~\$1,000~~ \$3,000 and not more than ~~\$5,000~~ \$15,000 per
22 violation may be adjudged.

23 **Sec. 3. 26 MRSA §872, sub-§6** is enacted to read:

24 **6. Assistance.** The Department of Conservation shall provide interagency support
25 and field information to assist the Department of Labor in enforcing this section.

26 **Sec. 4. 26 MRSA §931-B**, as enacted by PL 2003, c. 670, §2, is repealed.

27 **Sec. 5. 26 MRSA c. 18**, as amended, is repealed.

28 **Sec. 6. Appropriations and allocations.** The following appropriations and
29 allocations are made.

30 **LABOR, DEPARTMENT OF**

31 **Labor Relations Board 0160**

32 Initiative: Reduces funds for the per diem and related costs of the State Board of
33 Arbitration and Conciliation due to the repeal of the rate determination process for forest
34 products hauling and harvesting services.

35



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LD 1492

LR 2019(01)

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Fiscal Note for Original Bill
Sponsor: Rep. Martin of Eagle Lake
Committee: Not Referred
Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	(\$3,300)	(\$3,300)	(\$3,300)	(\$3,300)
Appropriations/Allocations				
General Fund	(\$3,300)	(\$3,300)	(\$3,300)	(\$3,300)
Other Special Revenue Funds	(\$18,360)	(\$18,360)	(\$18,360)	(\$18,360)

Correctional and Judicial Impact Statements

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

Fiscal Detail and Notes

This bill includes General Fund deappropriations of \$3,300 per year beginning in fiscal year 2009-10 and Other Special Revenue Funds deallocations of \$18,360 per year beginning in fiscal year 2009-10 in order to reduce funds for the per diem and related other costs of the State Board of Arbitration and Conciliation as a result of the rate determination process for forest products hauling and harvesting services being repealed. Additional costs to the Department of Conservation associated with providing support to enforce the provisions of the bill can be absorbed within existing budgeted resources.