

MAINE STATE LEGISLATURE

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5/28/13
R. & G.

L.D. 1259

Date: 5/28/13

majority

(Filing No. H-257)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 893, L.D. 1259, "Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment by Employers Employing Foreign Laborers To Operate Logging Equipment, a Major Substantive Rule of the Department of Labor"

Amend the resolve by striking out all of section 1 and inserting the following:

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment by Employers Employing Foreign Laborers to Operate Logging Equipment, a provisionally adopted major substantive rule of the Department of Labor that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made:

1. The portion of the rule designated as Section VI(A) is amended to clarify that each foreign laborer may use only one type of equipment for an employer; and

2. The portion of the rule designated as Section III is amended to provide that a foreign laborer may not own any equipment used in the course of the employment, directly or indirectly, except as to equipment for which there is a prevailing rate established by the United States Department of Labor. The penalty for violation of this requirement must be a fine of not less than \$5,000 and not more than \$25,000 assessed against the employer of that foreign laborer and collected by the Commissioner of Labor. Additionally, the rule must state that, upon conviction of a violation of this requirement, the Commissioner of Labor may prohibit the employer from employing foreign laborers in the State for 2 years.

The department is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

COMMITTEE AMENDMENT

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Regulation and Enforcement 0159

Initiative: Provides funds for one Labor and Safety Inspector position and related All Other costs associated with increased enforcement responsibility.

GENERAL FUND	2013-14	2014-15
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$46,950	\$65,595
All Other	\$11,400	\$14,700
GENERAL FUND TOTAL	\$58,350	\$80,295

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SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Labor, Commerce, Research and Economic Development, makes the authorization of the proposed major substantive rule conditioned on changes made to the rule to clarify that a foreign laborer may use only one type of equipment for an employer, to provide that a foreign laborer may not own any equipment used in the course of the employment, directly or indirectly, except as to equipment for which there is a prevailing rate established by the United States Department of Labor, and to require that a penalty be assessed against the employer of that foreign laborer for a violation of this requirement, with a potential prohibition against the employer's employing foreign laborers for 2 years. These changes are intended to improve consistency with federal requirements and to address issues of fraud.

FISCAL NOTE REQUIRED

(See attached)



126th MAINE LEGISLATURE

LD 1259

LR 2075(02)

Resolve, Regarding Legislative Review of Portions of Chapter 17: Rules Regarding Proof of Ownership and Recruitment 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' (H-257)
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue increase - General Fund

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Net Cost (Savings)				
General Fund	\$58,350	\$80,295	\$81,607	\$82,945
Appropriations/Allocations				
General Fund	\$58,350	\$80,295	\$81,607	\$82,945

Fiscal Detail and Notes

This bill includes General Fund appropriations of \$58,350 in fiscal year 2013-14 and \$80,295 in fiscal year 2014-15 to the Regulation and Enforcement program within the Department of Labor for one Labor and Safety Inspector position and related all other costs as a result of the increase in enforcement responsibility associated with this legislation. The Department of Labor has indicated that the Regulation and Enforcement program may need an additional second Labor and Safety Inspector position as a result of this legislation depending on actual experience.

This legislation may result in increased General Fund revenue from fines. The amount will depend on the number and amount of fines assessed.