

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 402

H.P. 268

House of Representatives, February 12, 2015

**Resolve, To Amend Rules Regarding Proof of Ownership of Logging
Equipment and Recruitment by Employers Employing Foreign
Laborers To Operate Logging Equipment**

Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MARTIN of Eagle Lake.
Cosponsored by Representative: MARTIN of Sinclair.

1 **Preamble. Whereas,** the Department of Labor submitted a provisionally adopted
2 major substantive rule to the 126th Legislature for review during the First Regular
3 Session of the 126th Legislature pursuant to the Maine Revised Statutes, Title 5, section
4 8072; and

5 **Whereas,** in accordance with Title 5, section 8072, the Joint Standing Committee on
6 Labor, Commerce, Research and Development reviewed the provisionally adopted rule
7 and the 126th Legislature finally passed a resolve authorizing final adoption of the
8 provisionally adopted rule conditioned on certain changes being made to the rule; and

9 **Whereas,** the resolve authorizing final adoption of the provisionally adopted rule
10 did not become law; and

11 **Whereas,** a provisionally adopted rule filed in accordance with Title 5, section 8072
12 may not be finally adopted by an agency unless legislation authorizing adoption of the
13 rule is enacted into law; and

14 **Whereas,** pursuant to Title 5, section 8072, subsection 11, nothing in Title 5, section
15 8072 requires the Legislature to use the legislative instrument produced pursuant to Title
16 5, section 8072 to approve of a rule; and

17 **Whereas,** this resolve directs the Department of Labor to amend its rule in
18 conformance with the rule as approved by the 126th Legislature; now, therefore, be it

19 **Sec. 1. Rule adoption. Resolved:** That the Department of Labor shall amend its
20 rule regarding proof of ownership of logging equipment and recruitment by employers
21 employing foreign laborers to operate logging equipment in conformance with the
22 provisionally adopted major substantive rule submitted to the 126th Legislature for
23 review, except that the rule must incorporate the following changes that were authorized
24 by the 126th Legislature:

25 1. The portion of the rule designated in the provisionally adopted rule as Section
26 VI(A) must be amended to clarify that each foreign laborer may use only one type of
27 equipment for an employer; and

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

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

39 The department shall implement the rule using existing resources; and be it further

