

MAINE STATE LEGISLATURE

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N I N E T Y - F O U R T H L E G I S L A T U R E

Legislative Document

No. 645

S. P. 379

In Senate, February 11, 1949.

Referred to Committee on Labor. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Haskell of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-NINE

AN ACT to Create an Industrial Safety Code Commission.

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

R. S., c. 25, §§ 9-A to 9-H, additional. Chapter 25 of the revised statutes is hereby amended by adding thereto 8 new sections to be numbered 9-A to 9-H, inclusive, to read as follows:

‘Industrial Safety Code Commission

Sec. 9-A. Definitions. When used in sections 9-A to 9-H, inclusive, unless the context clearly requires otherwise:

“Amendment” shall mean such modification or change in a code as shall be intended to be of universal or general application;

“Code” shall mean a standard body of rules for safety and health formulated, adopted and issued by the commission under the provisions of sections 9-A to 9-H, inclusive;

“Commission” shall mean the industrial safety code commission;

“Employer” shall mean a person, firm, corporation, partnership, association, receiver or trustee in bankruptcy having one or more persons in his or its employ, or any person acting in the interest of an employer, directly or

indirectly, but the term shall not apply to domestic service or agricultural pursuits;

“Variation” shall mean a special limited modification or change in a code which is applicable only to the particular place of employment of the employer or person petitioning for such modification or change.

Sec. 9-B. Employers’ duties; landlords. Every employer shall furnish a place of employment which shall be safe for the employees therein, and shall furnish and use safety devices and safeguards, and shall adopt and use methods and processes reasonably adequate to render such places of employment safe, and shall do every other thing, including provision for and maintenance of such conditions and methods of sanitation and hygiene as are reasonably necessary to protect the life, health and safety of such employees or the public.

Every employer and every owner of a place of employment shall repair and maintain the same to render it safe. In any civil suit or action brought against a landlord by an employee or by a member of the public for recovery of damages for injury or death, the provisions of this section shall not be construed to apply or in any way increase or affect the present liability of said landlord.

Sec. 9-C. Industrial safety code commission. There is hereby created within the department of labor and industry an industrial safety code commission consisting of 6 members, 3 of whom shall be owners, managers or safety engineers of industrial plants located in the state of Maine, 2 of whom shall be representatives of casualty insurance companies licensed to do business in the state and the 6th member shall be the commissioner of labor and industry who shall be ex officio chairman of the commission. Each member shall be appointed by the commissioner of labor and industry with the approval of the governor and council for a term of 3 years or until their successors have been duly appointed and qualified. Vacancies shall be filled for the unexpired term in the same manner as the original appoints. A member of the commission may be removed for cause by the governor and council. The industrial accident commissioners and the commissioner of health and welfare shall be ex officio members of the said commission, but shall have no vote.

The 5 appointed members of the commission shall serve without salary and shall receive their necessary expenses incurred in the discharge of their duties. The commissioner of labor and industry shall approve and countersign all vouchers for expenditures under the provisions of this section.

Sec. 9-D. Code-making power. The commission shall have the power to make, amend and repeal codes for the prevention of accidents or occupational diseases in every employment or place of employment, including the repair and maintenance to render such places of employment safe; provided that no such codes or amendments thereof shall be effective unless and until approved by the commissioner of labor and industry. The commissioner of labor and industry and the commissioner of health and welfare shall each have the right to propose to the commission such codes or amendments to existing codes as they may deem necessary to carry out the intent of sections 9-A to 9-H, inclusive.

In the performance of their duties, the commission may appoint special industry committees composed of such number of qualified persons as the commission may determine to suggest codes or amendments thereto for their particular industry.

All such codes or amendments thereto, when adopted, shall be as far as possible consistent with the then existing safety codes of such engineering bodies as the American Society of Mechanical Engineers, the American Standards Association, the American Society of Safety Engineers and other accepted codes. The codes adopted under the provisions of sections 9-A to 9-H, inclusive, shall have the force and effect of law.

Before any code is adopted, amended or repealed, there shall be a public hearing thereon, notice of which shall be published at least once, not less than 10 days prior thereto, in such newspapers or newspaper as the commission may prescribe. A record shall be made of all proceedings at such public hearings.

All codes and all amendments thereto and repeals thereof shall, unless otherwise prescribed by the commission, take effect 30 days after certified copies thereof shall be filed in the office of the secretary of state.

Every code adopted and every amendment or repeal thereof shall be published in such manner as the commission may determine. A printed list of the titles of all codes, including amendments thereof, issued and adopted by the commission under the provisions of sections 9-A to 9-H, inclusive, together with the dates of adoption thereof, shall be posted by the factory inspectors of the department of labor and industry in every factory, manufacturing or mercantile establishment where persons are employed.

Sec. 9-E. Variations. Any employer may consult with the commissioner of labor and industry or the commissioner of health and welfare for advice and assistance in complying with the provisions of sections 9-A to

9-H, inclusive, or any codes adopted thereunder. In case of practical difficulties, the commissioner of labor and industry may grant variations from particular provisions of a code and permit the use of other or different devices or methods; provided, however, that such variations shall be granted only when it is clear that the reasonable safety of the workers in said plant is not thereby endangered. In any case where the commissioner of labor and industry shall decline or refuse to grant any requests for variations on the grounds that the safety of the workers involved would be endangered, the said employer may, within 30 days of such refusal, petition the commission in writing for the variations denied. The petitioner shall state the grounds and reasons for requesting such variations. The commission shall fix a day for a hearing on such petition and shall give reasonable notice thereof to the petitioner and the commissioner of labor and industry. A properly indexed record of all variations made shall be kept in the office of the commissioner of labor and industry and be open to public inspection.

Sec. 9-F. Court review. Any employer aggrieved by any decision of the commission refusing to grant a variation pursuant to the provisions of section 9-E may, within 30 days after such decision, commence an action in the superior court of Kennebec county against the commission for a review of such decision. The findings of the commission shall be conclusive unless clearly erroneous.

In any proceeding under this section, the court shall order notice given to the commission and to the commissioner of labor and industry in such manner as it shall determine. Any such proceeding and the pleadings therein shall be governed by the laws and rules of practice applicable to other civil actions in such court.

Sec. 9-G. Penalties. Any employer or owner who violates or fails or refuses to comply with the provisions of sections 9-A to 9-H, inclusive, or any code adopted by the commission, or any lawful order of the commissioner of labor and industry, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months, or by both such fine and imprisonment for each such offense; and each day such violation, omission, failure or refusal continues shall be deemed a separate offense; provided that any person who shall knowingly testify falsely, under oath, or shall knowingly make, give or produce any false statements or false evidence, under oath, to the commissioner of labor and industry or his authorized representatives or to the commission shall be deemed guilty of perjury. It shall be the duty of the commissioner of labor and industry or his author-

ized representative to enforce the provisions of sections 9-A to 9-H, inclusive.

Sec. 9-H. Limitation. Nothing in the provisions of sections 9-A to 9-H, inclusive, shall be construed to repeal or to limit or restrict in any way the present state law, statute, regulation or order governing the safety or health of employees in any place of employment.'