

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 849**

H. P. 1313

House of Representatives, February 22, 1951.

Referred to the Committee on Judiciary, sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Brown of Baileyville.

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**STATE OF MAINE**

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-ONE

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**AN ACT Providing for the Establishment of Standards for Employees  
and the Public.**

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

**R. S., c. 25, §§ 121-127, additional.** Chapter 25 of the revised statutes is hereby amended by adding thereto 7 new sections to be numbered 121 to 127, inclusive, to read as follows:

**'Standards for Welfare of Employees and Public**

**Sec. 121. Definitions.** When used in sections 121 to 127, inclusive, the following terms shall have the following meanings:

The term "place of employment" shall mean and include every place, whether indoors or out or underground and the premises appertinent thereto where, either temporarily or permanently, any industry, trade or business is carried on, or where any process or operation directly or indirectly related to any industry, trade or business, is carried on, and where any person is directly or indirectly employed by another for direct or indirect gain or profit; provided, it shall not include any place where persons are employed in private domestic service or in agricultural pursuits.

The term "employer" shall mean and include an individual, a partnership,

an association, a corporation, legal representative, trustee, receiver, trustee in bankruptcy, or any person having control or custody of any employment, place of employment, or of any employee, and any common carrier by rail, motor, water or express company doing business in or operating within the state, but shall not include private employment in domestic service or agricultural pursuits.

The term "employment" shall mean and include any trade, occupation or process of manufacture, or any method of carrying on such trade, occupation or process of manufacture in which any person may be engaged and any common carrier by rail, water, air or motor, and any express company doing business in or operating within the state but shall not include domestic service or agricultural pursuits.

The term "employee" shall mean and include every person who may be required or directed by any employer, as defined in this section, who may be permitted, required or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, or to go or work or be at any time in any place of employment.

The term "frequenter" shall mean and include every person, other than an employee, who may have the lawful right to be on the premises of the employer or owner under circumstances which were rendering him other than a trespasser.

The term "deputy" shall mean any person, employed by the department of labor and industry to whom has been delegated the duties of investigating, enforcing, or otherwise performing work in the furtherance of the provisions of sections 121 to 127, inclusive.

The term "order" shall mean and include any decision, rule, regulation, direction, requirement or standard of the department or any other determination arrived at or decision made by the department as provided for in sections 121 to 127, inclusive.

The term "general order" shall mean and include such order or directive as applies generally throughout the state to all persons or places covered by the provisions of sections 121 to 127, inclusive. All other orders of the department shall be considered special orders.

The term "welfare" shall mean and include comfort, decency, and moral well-being, as it affects employees or the public.

The term "safe" or "safety" as applied to an "employee" or "place of employment" shall mean such freedom from danger to the life, health, safety

or welfare of employees or frequenters or the public or the tenants, or firemen and such reasonable means of modifications, digress and escape in case of fire and such freedom from danger to adjacent buildings or other property as the nature of the employment, place of employment, will reasonably permit.

The term "owner" shall include any person, whether or not an employer as defined in this section, who has the legal title to a "place of business" either in fee simple, lease-hold or otherwise.

Sec. 122. Records; branch offices; hearings. The department shall keep a true and complete record of all transactions arising under the provisions of sections 121 to 127, inclusive. The department may establish such offices as it may deem necessary, subject to the provision that not more than 3 other such offices, to be known as "branch offices," may be established at any one time.

The department may hold hearings at any place within the state when the convenience of the department and the parties interested so require.

Sec. 123. Duties of the department. It shall be the duty of the department:

I. To investigate, ascertain and prescribe what safety devices, safeguard, or other means or methods of protection are best adapted to render safe, employees of every employment and place of employment and frequenters of every place of employment and to protect their welfare as required by law or lawful orders.

II. To ascertain and fix such reasonable standards and to prescribe, modify and enforce such reasonable orders for the adoption of safety devices, safeguards and other means or methods of protection to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life, health, safety and welfare of employees in employment defined in section 121.

III. To ascertain, fix and order such reasonable standards, rules or regulations for the constructions, repair and maintenance of places of employment and other public buildings as shall render them safe for employees, frequenters and the general public.

VI. To issue any order, after conducting a hearing as provided for in section 126 not inconsistent with the intent and purpose of sections 121 to 127, inclusive, and within the meaning of the broad application of the term "welfare" as used in sections 121 to 127, inclusive. No order or

general order may be issued by the department unless it has complied with the requirements of section 126.

The department or its duly authorized deputies shall have the right at all reasonable hours to enter into and upon all buildings, premises and thoroughfares, for the purpose of ascertaining and causing to be corrected any violation of any law or order which may be issued by the department by virtue of the powers conferred by sections 121 to 127, inclusive. Sections 121 to 127, inclusive, shall not be construed to permit the department or any of its duly authorized deputies to at any time have the right to enter the interior of any private dwelling.

Such investigation may be made either after a complaint has been filed, as provided for in section 125, or may be instituted by the department as its regulations may provide.

Sec. 124. Employer's duties. Every employer shall furnish a place of employment which shall be safe for the employees therein and frequenters thereof and shall furnish and use safety devices and safeguards and shall adopt and use methods and processes reasonably adequate to render such employment and places of employment safe, and shall do every other thing reasonably necessary to protect the life, health, safety and welfare of such employees and frequenters.

Every employer and every owner shall furnish to the department all information required by the department which may be consistent with the intents of sections 121 to 127, inclusive.

Sec. 125. Complaints. Any employee as defined in section 1 may at any time after the effective date of sections 121 to 127, inclusive, file a complaint with the department.

Sec. 126. Investigation. Upon the filing of a complaint either by an employee or the department the employer shall be given 20 days in which to answer the complaint. Within 10 days after the filing of the answer the department shall set a hearing date at a place convenient to both the parties and the department, the department to designate the place and time at which hearing all parties, including persons having an interest other than the employer, owner and employee, whom the department may allow to intervene, may present evidence and cross-examine witnesses. Parties to a proceeding may appear and be heard in such proceeding in person or by counsel or by other representatives as they may respectively elect. The department shall issue an order or general order, as circumstances warrant,

within 45 days after the hearing. On motion of either party the department may allow a continuance not to exceed 30 days.

The department may at its discretion allow an employer a reasonable time, not to exceed 45 days, in which to comply with any order which the department may issue.

Any party aggrieved by an order or general order of the department shall have the right to resort to the superior court of Kennebec county, in term time or vacation.

Sec. 127. Penalty. Any employer, employee, owner or other persons who refuse, fail or neglect to comply with a lawful order or general order of the department shall pay into the state treasury the sum of \$25 for each day, Sunday excluded, in which said employer, employee, owner or other person, refuses, neglects or fails to comply with said order of the department. The attorney general is empowered to file suit in behalf of the state for any unpaid penalties. Said suits to be filed within 1 year from date of the department's order.'