

MAINE STATE LEGISLATURE

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

Legislative Document

No. 956

S. P. 347

In Senate, February 24, 1955.

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

CHESTER T. WINSLOW, Secretary.

Presented by Sen. Farris of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Creating the Board of Construction Safety Rules and Regulations.

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

Sec. 1. R. S., c. 30, § 4, amended. Section 4 of chapter 30 of the revised statutes is hereby amended to read as follows:

'Sec. 4. Powers to enter manufacturing establishment. The Commissioner as State Factory Inspector, and any authorized agent of the Department, may enter any factory or mill, **construction activity**, workshop, private works or state institutions which have shops or factories, when the same are open or in operation, for the purpose of gathering facts and statistics such as are contemplated by this section and the 2 preceding sections, and may examine into the methods of protection from danger to employees and the sanitary conditions in and around such buildings and places, and may make a record of such inspection.'

Sec. 2. R. S., c. 30, § 5, amended. Section 5 of chapter 30 of the revised statutes is hereby amended by adding thereto a new paragraph to read as follows:

'If the Commissioner or any authorized agent of the Department shall find, upon inspection of construction activities, that conditions of the activity are in violation of the rules and regulations and so as to be dangerous to employees working at or near them, he shall notify immediately the contractor or person in charge of such activity to make alterations or additions consistent with the rules and regulations by him deemed necessary for the safety and protection

of the employee. Such notice shall be served personally upon the contractor or the person in charge of the activity, or in cases of obvious or extreme hazard where immediate action is necessary to preserve life and limb and where the contractor or person in charge of such activity is not readily accessible, he may conspicuously affix a written notice or tag to the object or device or to the part thereof declared to be unsafe. After such notice has been served or affixed, all persons shall cease using until the object or device, or part thereof, is altered or strengthened in such a manner as to provide safe conditions. The inspector shall make every effort to notify immediately the contractor or person in charge of such activity before undertaking such action.'

Sec. 3. R. S., c. 30, § 8, amended. The 1st sentence of section 8 of chapter 30 of the revised statutes is hereby amended to read as follows:

'The person in charge of any factory, workshop, **construction activity** or other industrial establishment shall, within 10 days after the occurrence, report in writing to the Commissioner all deaths, accidents or serious physical injuries sustained by any person therein or on the premises, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by said Commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings.'

Sec. 4. R. S., c. 30, § 9, amended. The 2nd and 3rd paragraphs of section 9 of chapter 30 of the revised statutes are hereby amended to read as follows:

'Whoever refuses to admit or unreasonably delays the Commissioner or any authorized agent of the Department in entering any factory, mill, workshop, **construction activity**, private works or state institution referred to in section 4 for the purpose of carrying out the provisions of said section 4, or refuses to give the information required by said Commissioner or authorized agent, shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

Any proprietor, owner or agent of any factory, mill, workshop, **construction activity**, private works or state institution, described in section 4, who fails to make the alterations or additions required by the Commissioner as State Factory Inspector or any authorized agent of the Department within 30 days from the date of the written notice specified in section 5 or within such time as said alterations or additions can be made with proper diligence, shall be punished by a fine of not less than \$25, nor more than \$200, or by imprisonment for not more than 30 days, or by both such fine and imprisonment.'

Sec. 5. R. S., c. 30, §§ 88-A - 88-E, additional. Chapter 30 of the revised statutes is hereby amended by adding thereto 5 new sections to be numbered 88-A to 88-E, to read as follows:

'Board of Construction Safety Rules and Regulations.

Sec. 88-A. Establishment and purpose. There is hereby created and established the Board of Construction Safety Rules and Regulations for the purpose of formulating and adopting reasonable safety regulations and codes in order

to provide for personal, material and public safety in connection with construction, and such other activities usually associated with the construction industry. The said Board shall consist of 7 members of which 6 shall be appointed to membership by the Commissioner of Labor and Industry, subject to the approval of the Governor and Council. Of the 6 appointed members of the Board, 2 shall represent the construction contractors within the State; 2 shall represent the construction workers within the State; one shall represent the insurance companies licensed to insure Workmen's Compensation within the State; one shall represent the public. The 7th member of the Board shall be the Commissioner of Labor and Industry. The Chairman shall be elected annually by the members of the Board. The Board shall meet at least twice yearly at the State Capitol, or at any other place designated by the chairman. Of the 6 appointed members, 2 shall be appointed for a term of 2 years; 2 shall be appointed for a term of 3 years; and 2 shall be appointed for a term of 4 years. Each member shall hold office until his successor is duly appointed and qualified. At the expiration of each member's term his successor shall be appointed by the Commissioner of Labor and Industry, subject to the approval of the Governor and Council, from the same classification in accordance with the provisions of this section for a term of 4 years. In case of a vacancy in board membership, the Commissioner of Labor and Industry, with the approval of the Governor and Council, shall appoint a member of the proper classification to serve the unexpired term of the absent member.

The 6 appointed members of the Board shall serve without salary and shall receive their actual expenses while engaged in the performance of their duties as members of said Board. The chairman of said Board shall approve and countersign all vouchers for expenditures under the provisions of this section.

Sec. 88-B. Definitions. Under the provisions of sections 88-A to 88-E, inclusive, the following words shall have the following meanings:

"Approved" shall mean as approved by the Board of Construction Safety Rules and Regulations;

"Board" shall mean the Board of Construction Safety Rules and Regulations;

"Commissioner" shall mean the Commissioner of Labor and Industry;

"Construction" shall mean and include forming, erection, demolition, dismantling, alteration, repair and moving of buildings and all other structures and all operations in connection therewith; and shall also include all excavation, roadways, sewers, trenches, tunnels, pipe lines and all other operations pertaining thereto. The definition of "construction" shall apply to all sections of chapter 30, unless a different meaning is plainly required by the context.

Sec. 88-C. Duties and powers of the Board. The Board shall formulate and adopt, or adopt by reference, reasonable rules and regulations for safe and proper operations in construction within the State. The rules and regulations so formulated shall conform as far as practicable to the standard safety codes for construction. Such rules and regulations shall become effective 90 days after the date they are adopted, provided, however, that before any rules and regulations are adopted a public hearing shall be held after suitable notice has been published in at least 3 daily newspapers within the State.

Sec. 88-D. Appeals. Any person aggrieved by an order or act of the inspector or the Department under the provisions of sections 88-A to 88-E, inclusive, may, within 15 days after notice thereof, appeal from such order or act to the Board which shall hold a hearing thereon, and said Board shall, after such hearing, issue an appropriate order either approving or disapproving said order or act.

Any such order of said Board or any rule or regulation formulated by said Board shall be subject to review by a Justice of the Superior Court in term time or vacation by an appeal taken within 30 days after the date of such order to the Superior Court held in and for the county in which the operation is located at the instance of any party in interest and aggrieved by said order or decision. Such appeal shall be prosecuted by petition to which such party shall annex the order of the Board and in which the appellant shall set out the substance of and the reasons for the appeal. Upon the filing thereof the court in term time or a Justice thereof in vacation shall order notice thereof. Upon the evidence and after hearing which shall be held not less than 7 days after notice thereof, the court or a Justice thereof may modify, affirm or reverse the order of the Board and the rule or regulation on which it is based in whole or in part in accordance with law and the weight of the evidence. The court or a Justice thereof shall, upon hearing, determine whether the filing of the appeal shall operate as a stay of any order pending the final determination of the appeal, and may impose such terms and conditions as may be deemed proper.

Sec. 88-E. Exceptions. The provisions relating to safety in the construction industry shall not apply to construction for self use providing not more than 2 persons are employed for wages in such construction or that such construction is not performed by a party for hire under a verbal or written contract.'