

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Weighing points shall be designated by the placement of signs not less than 500 feet from approaching traffic where these weighing points are established and all these signs shall bear the words "State Police Truck Check - All Trucks Stop." These signs shall display flashing yellow lights which shall be operated at times when the weighing stations are in operation. The placement of signs shall be prima facie evidence that these signs were displayed in accordance with this section and any operator who drives a vehicle past these signs and fails to stop at the weighing point, except as otherwise directed by a police officer, shall be guilty of a civil violation with a forfeiture of not more than \$500.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 16, 1983.

CHAPTER 452

H.P. 592 - L.D. 736

AN ACT to Protect Employees from Reprisal
who Report or Refuse to Commit Illegal Acts.

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

26 MRSA c. 7, sub-c. V-A is enacted to read:

SUBCHAPTER V-A

PROTECTION OF EMPLOYEES WHO REPORT

OR REFUSE TO COMMIT ILLEGAL ACTS

§821. Short title

This subchapter may be cited as the "Whistleblowers' Protection Act."

§822. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Employee. "Employee" means a person who per-

forms a service for wages or other remuneration under a contract of hire, written or oral, expressed or implied, but does not include an independent contractor. Employee includes a person employed by the State or a political subdivision of the State.

2. Employer. "Employer" means a person who has one or more employees. Employer includes an agent of an employer and the State, or a political subdivision of the State.

3. Person. "Person" means an individual, sole proprietorship, partnership, corporation, association or any other legal entity.

4. Public body. "Public body" means all of the following:

A. A state officer, employee, agency, department, division, bureau, board, commission, council, authority or other body in the executive branch of State Government;

B. An agency, board, commission, council, member or employee of the legislative branch of State Government;

C. A county, municipal, village, intercounty, intercity or regional governing body, a council, school district or municipal corporation, or a board, department, commission, council, agency or any member or employee thereof;

D. Any other body which is created by state or local authority or which is primarily funded by or through state or local authority, or any member or employee of that body;

E. A law enforcement agency or any member or employee of a law enforcement agency; and

F. The judiciary and any member or employee of the judiciary.

§823. Discharge of, threats to or discrimination against employee for reporting violations of law or refusing to carry out illegal directives

An employer shall not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee, acting in good faith, or a person acting on behalf of the employee, reports verbally or in writing, what the employee has reasonable cause to believe to be a violation of a law or rule promul-

gated pursuant to the laws of this State, a political subdivision of this State or the United States to his employer or a public body, or because an employee is requested by a public body to participate in an investigation, hearing or inquiry held by that public body, or a court action. This paragraph does not apply to an employee who has reported or caused to be reported what he has reasonable cause to believe to be a violation to a public body, unless the employee has first brought the alleged violation to the attention of a person having supervisory authority with the employer, and has allowed the employer a reasonable opportunity to correct that violation. The requirements of the foregoing sentence do not apply when the employee has specific reason to believe that reports of violation to his employer will not result in promptly remedying the violation.

An employee mandated to report suspected abuse, neglect or exploitation under Title 22, section 3477 or 4011 shall follow the requirements set forth in those sections for those circumstances. An employer shall not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee followed the requirements of those sections.

An employer shall not discharge, threaten or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee has refused to carry out a directive which in fact violates a law or rule promulgated pursuant to the laws of this State, a political subdivision of this State or the United States, when that violation would put at risk the health or safety of that employee or any other individual.

§824. Civil actions for injunctive relief or other remedies

An employee who alleges a violation of his rights under section 823 and who has first made a reasonable effort to maintain or restore his rights through any grievance procedure or similar process which may be available at his place of employment may bring a civil action for appropriate injunctive relief and other remedies provided in section 825 within 90 days after the occurrence of that alleged violation or, if a grievance procedure or similar process is used, within 60 days after the grievance procedure or similar process terminates without resolution. The action may be brought in the Superior Court for the county where the alleged violation occurred, the county where the complainant resides or the county where the person against whom the civil complaint is

filed resides or has his principal place of business.

An employee shall establish each and every element of his case, as set out in section 823, by a preponderance of the evidence.

§825. Remedies ordered by court

A court, in rendering a judgment in an action brought pursuant to this subchapter, shall order, as the court considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights or any combination of these remedies. A court may also award the prevailing party all or a portion of the costs of litigation, including reasonable attorneys' fees and witness fees, if the court determines that the award is appropriate.

§826. Penalties for violations

A person who violates section 829 is liable for a civil fine of \$10 for each day of willful violation which shall not be suspended. Any civil fine imposed under this section shall be submitted to the Treasurer of State for deposit to the General Fund.

§827. Collective bargaining rights

This subchapter shall not be construed to diminish or impair the rights of a person under any collective bargaining agreement.

§828. Compensation for employee participation in investigation, hearing or inquiry

This subchapter shall not be construed to require an employer to compensate an employee for participation in an investigation, hearing or inquiry held by a public body in accordance with section 823.

§829. Notices of employee protections and obligations

An employer shall post such notices as are prescribed by the Department of Labor as a means of keeping his employees informed of their protections and obligations under this subchapter.

§830. Jury trial; common-law rights

Any action brought under this subchapter may be heard by a jury. Nothing in this subchapter may be construed to derogate any common-law rights of an employee.