

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

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PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION
of the
ONE HUNDRED AND THIRTEENTH LEGISLATURE
1987

CHAPTER 327

S.P. 505 — L.D. 1529

AN ACT to Establish the Railroad Employee Equity Act.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, legislation is necessary at the earliest possible time to prevent some railroad lines from being operated by unqualified individuals, thereby endangering the public safety; and

Whereas, numerous rail employees, who would be eligible for the career assistance training program established in this legislation to correct the problem; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore

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

26 MRSA c. 27 is enacted to read:

CHAPTER 27

RAILROAD EMPLOYEE EQUITY ACT

§2071. Short title

This chapter shall be known and may be cited as the "Railroad Employee Equity Act."

§2072. Hiring priority

Effective January 1, 1987, any person, corporation or other entity purchasing, acquiring, leasing or otherwise obtaining from a financially related entity the right to operate a rail line or abandoned rail line in this State shall give a first right of hire to fill any subordinate official or nonmanagement position in the staffing of the new rail operation in the following order of priority:

1. Priority under federal law. First, all employees who are required to be accorded priority under federal law, employee protection obligations imposed by law, regulation or contracts which require the new operator to select employees of the prior operator or existing or future collective bargaining agreements;

2. Seniority rights. Second, all employees, in seniority order for each craft of class, who hold or held seniority rights on the line to be operated when last operated by its prior operator;

3. Railroad unemployment. Third, employees drawing benefits under the United States Railroad Unemployment Insurance Act, United States Code, Title 45, Section 367 et seq., in the area in which the line to be operated is located, and then within the State; and

4. Others. Fourth, any other individual.

§2073. Qualifications; presumption

Any person who is performing work on a rail line which is being sold or otherwise transferred to a new operator within this State who is entitled to priority of employment under section 2072 shall be presumed to be physically and mentally qualified to perform the same or comparable work with the new employer.

§2074. Deprivation of right; cause of action

Any person who is given a first right of hire by section 2072, who is deprived of that right by the action or inaction of the new operator of the rail line, shall have a cause of action against the new operator to enforce the right of hire guarantee by this Act, and may bring such an action in the Superior Court seeking an order for damages and requiring that the complainant be hired. Any person whose rights under this Act are found to have been violated by the new operator shall receive as damages an award of back pay from the date the person should have been hired until the date actually hired or until the claimant declines a bona fide offer of employment, plus attorneys fees and all other reasonable costs of litigation. If it is shown that the new operator willfully failed to comply with section 2072, in whole or in part, for a reason which is contrary to state or federal law, the complainant shall receive an award of treble damages without any reduction for outside earnings or unemployment benefits.

§2075. New career training assistance

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Expenses" means actual expenses paid for room, board, tuition fees or educational material.

B. "Qualified institution" means any educational institution accredited for payment by the Veterans' Administration under the United States Code, Title 38, Chapter 36, or state-accredited institution which has been in existence for not less than 2 years.

2. Entitlement. Any employee qualifying under section 2072, subsection 2, who applies for, but is unable to secure, a subordinate official or nonmanagement position in the staffing of the new rail operation, shall be entitled to receive, from the lessor, assignor or former owner, expenses for training in qualified institutions for new career opportunities.

3. Training to begin within 2 years. To be entitled for assistance under this Act, an employee must begin his course of training within 2 years following his separation from railroad employment as a result of acquisition of a railroad described in section 2072.

4. Benefit amounts. Affected employees shall be entitled to the following benefits for retraining according to their years of service on the affected railroad:

- A. 0 — 5 years of service up to \$3,000;
- B. 5 — 10 years of service up to \$6,000;
- C. 10 — 15 years of service up to \$9,000;
- D. 15 — 20 years of service . . . up to \$12,000; and
- E. 20 years of service and over . . . up to \$15,000.

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

Effective June 15, 1987.

CHAPTER 328

H.P. 979 — L.D. 1326

AN ACT Concerning Mussel Harvesting.

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

Sec. 1. 12 MRSA §6601, sub-§6, as repealed and replaced by PL 1981, c. 297, §3, is amended to read:

6. Definition. For the purposes of this subchapter, "shellfish" means clams, quahogs other than mahogany quahogs, oysters and ~~mussels~~ and includes shellstock and shucked shellfish.

Sec. 2. 12 MRSA §6651, sub-§§1 and 2, as amended by PL 1983, c. 838, §1, are further amended to read:

1. Fees to be paid into fund. Fifty-three percent of all fees from shellfish licenses, mussel hand-raking and boat licenses, shellfish transportation licenses and wholesale seafood licenses shall be paid into the Shellfish Fund.

2. Uses of fund. The commissioner may expend the money in the Shellfish Fund for management, enforcement, restoration, development and conservation of shellfish and mussels in the intertidal zone or coastal waters.

Sec. 3. 12 MRSA c. 623, sub-c. II-B is enacted to read:

SUBCHAPTER II-B

MUSSELS

§6745. Hand-raking mussel license

1. License required. It is unlawful for any person to engage in the activities authorized under this section without a current mussel license or other license issued under this Part authorizing the activities.

2. Licensed activity. The holder of a hand-raking mussel license may take mussels by hand raking or possess, ship, transport or sell mussels he has taken.

3. Eligibility. A hand-raking mussel license shall only be issued to an individual and shall be a resident license.

4. Exception. In any one day, any person may take or possess not more than 2 bushels of shell mussels or 4 quarts of shucked mussels for personal use without a mussel license.

5. Fee. The fee for a hand-raking mussel license shall be \$13.

§6746. Mussel boat license

1. License required. It is unlawful for any person to use a boat for dragging for mussels unless that boat carries a current mussel boat license issued by the commissioner.

2. Licensed activity. A boat license under this section may be used for dragging for mussels. The license shall also authorize the captain and up to 2 crew members aboard the licensed boat when engaged in dragging for mussels to undertake these activities.

3. Eligibility. A mussel boat license shall only be issued to an individual who is a resident.

4. Exception. In any one day, any person may take or possess not more than 2 bushels of shell mussel or 4 quarts of shucked mussels for personal use without a mussel license.

5. Fee. The fee for a mussel boat license is \$53.

§6747. Closed areas

1. Taking from closed areas. It is unlawful to fish for or take mussels from any area closed by regulation or to possess, ship, transport or sell mussels so taken.

2. Washing or holding in closed areas. It is unlawful to wash, hold or keep mussels in any area closed by regulation or to possess, ship, transport or sell mussels so washed, held or kept.

3. Exception. This section shall not apply to:

A. The taking of mussels under the authority of section 6856; or