

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
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Non-Emergency Laws Is
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

Sec. 3. 21-A MRSA §1060, sub-§4, as enacted by PL 1985, c. 161, §6, is amended to read:

4. Itemized expenditures. An itemization of expenditures and the date of each expenditure made to support or oppose any candidate, campaign, political committee, political action committee, political party, referendum or initiated petition. If expenditures were made to a person described in section 1012, subsection 3, paragraph A, subparagraph (4), the report must contain the name of the person; the amount spent by that person on behalf of the candidate, campaign, political committee, political action committee, political party, referendum or initiated petition; the reason for the expenditure; and the date of the expenditure. The commission may specify the categories of expenditures ~~which that~~ are to be reported to enable the commission to closely monitor the activities of political action committees;

Sec. 4. 21-A MRSA §1060, sub-§6, as amended by PL 1991, c. 839, §30, is further amended to read:

6. Identification of contributions. Names, occupations, places of business and mailing addresses of contributors who have given more than \$50 to the political committee after the committee has registered under section 1053, the amount contributed by each donor and the date of the contribution. The information already reported as required by section 1053, subsection 7 should not be duplicated; and

See title page for effective date.

CHAPTER 616

H.P. 1015 - L.D. 1380

An Act To Promote Safety and Fair Labor Practices for Forestry Workers

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

Sec. 1. 26 MRSA c. 7, sub-c. 2-A is enacted to read:

SUBCHAPTER 2-A

EMPLOYMENT STANDARDS IN THE FORESTRY INDUSTRY

§641. Rule of construction

This subchapter must be liberally construed in light of the purposes of the law to ensure a safe working environment and safe transportation for forestry workers and to prevent unfair competition in

the marketplace by businesses whose practices would undermine safety and other employment standards.

§642. Definitions

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

1. Bureau. "Bureau" means the Department of Labor, Bureau of Labor Standards.

2. Code of Federal Regulations. "Code of Federal Regulations" means the Code of Federal Regulations as of January 1, 2003.

3. Employer. "Employer" means a person or entity that suffers or permits any forestry worker to work.

4. Forestry worker. "Forestry worker" or "worker" means a person employed on a temporary or seasonal basis to perform reforestation activities, including, but not limited to, precommercial thinning, tree planting and brush clearing.

§643. Transportation of workers

1. Requirement. An employer shall provide safe transportation for forestry workers between the workers' lodgings and work sites each day at no cost to the workers.

A. A vehicle used to transport workers must meet the standards set forth in 29 Code of Federal Regulations, Section 500.105, regardless of the number of miles traveled or the type of vehicle used, and must include a working seat belt for each worker being transported. Any vehicle used to transport forestry workers may not have any apparatus attached to the rear of the vehicle that interferes with the operation of the rear door. Equipment or any other materials that interfere with the operation of any doors or windows may not be attached to or stored in the vehicle. The number of occupants in any vehicle, other than a bus, may not exceed 11 at any time. In the case of a 15-passenger van, compliance with this standard must be achieved by removal of the seating immediately behind the rear axle. Attachments are not allowed on the roofs of vans for the purpose of carrying gear.

B. Any person driving a vehicle used to transport workers must meet the driver qualifications and must follow the standards for driving set forth in 29 Code of Federal Regulations, Section 500.105.

C. Each vehicle used to transport workers must be equipped with a first aid kit consistent with 29

Code of Federal Regulations, section 1910.266, Appendix A and communications equipment capable of providing the most immediate access to emergency medical services. A vehicle equipped with such equipment and a driver must be available at or near the work site at all times during the work day. Emergency action plans, written in easily understandable English and in the language of the forestry worker crews, must be developed and maintained for each job site. Plans must include information on how to transport injured workers to the nearest emergency facility and how to direct emergency workers to the location of an injured worker who can not be moved.

D. An employer must make reasonable efforts to limit the driving hours of any one driver in a day and to reduce driver fatigue generally. Hours of operation must also comply with the limitations set forth in 29 Code of Federal Regulations, Section 500.105. Except in an emergency, a worker who engages in reforestation activities may not operate a vehicle more than 2 hours per day.

E. A vehicle used to transport workers must be insured for at least the same minimum liability insurance as is required by the State.

F. Each employer shall provide to each worker and to the Department of Labor a copy of off-road driving safety standards consistent with those promoted in relevant safe driver training courses.

G. Each contract regarding or resulting in the employment of any forestry worker must include a provision requiring the contractor who employs forestry workers to abide by this subchapter.

§644. Prohibition against discrimination and retaliation

An employer or other person may not intimidate, threaten, restrain, coerce, blacklist, discharge, fail to recruit, fail to rehire or in any manner discriminate or retaliate against a forestry worker because the worker has:

1. Proceedings. Made, filed, instituted, caused to be instituted or participated in any way in any proceeding under or related to this subchapter;

2. Exercise of rights or protections. Exercised in any way, on the worker's own behalf or on behalf of others, any right or protection afforded by this subchapter;

3. Discussions. Discussed any matter that is a subject of or is related in any way to this subchapter, or any other lawful matter, with any other person,

including, but not limited to, that forestry worker's employer or the employer's agent or employee; or

4. Complaints. Made, filed, instituted, caused to be instituted or participated in any way in any lawful complaint, lawsuit or other proceeding of any kind.

§645. Waiver of rights prohibited

Any agreement by a forestry worker purporting to waive or modify any of the worker's rights under this subchapter is void as contrary to public policy.

§646. Violations; enforcement

1. Joint and several liability. If more than one person or entity is an employer of the same forestry worker or group of workers, each such person or entity is jointly and severally liable for all violations of this subchapter.

2. Enforcement by bureau. The bureau may inspect vehicles subject to this subchapter and used to transport forestry workers and may enforce compliance with this subchapter in accordance with this section.

A. A duly designated officer of the bureau may enter into any structure or upon any real property in or on which a vehicle subject to this subchapter and used to transport forestry workers is found in accordance with the process established in section 587 in order to determine compliance with this subchapter and any rules adopted to implement this subchapter.

B. Upon the written request of the bureau, the Department of Transportation and the Department of Public Safety shall provide any technical services that may be required by the bureau to assist with inspections and enforcement of this subchapter.

3. Civil violation. An employer who violates this subchapter or any of the rules adopted to implement this subchapter commits a civil violation for which a fine of not less than \$100 nor more than \$1,000 for each violation, payable to the State, may be adjudged.

A. Each day that a violation remains uncorrected following notice to the employer may be counted as a separate violation.

B. The bureau may direct an employer to correct any violations in a manner and within a time frame that the bureau determines appropriate to ensure compliance with this subchapter and with the rules adopted to implement this subchapter or to protect the public health. Failure to correct violations within a time frame established by the

bureau constitutes a separate violation subject to fine.

C. The Attorney General may bring an action to seek fines under this subsection, to enjoin violations of this subchapter and for any other available remedy.

Sec. 2. Report on safety efforts. By January 15, 2005 and by January 15th of each year thereafter, representatives of a trade association designated by forest landowners and forest management companies engaged in the practice of reforestation work shall report to the joint standing committee of the Legislature having jurisdiction over labor matters on a safety program designed to provide training, including driver training, first aid training and other appropriate safety training, and to improve safety standards, safety equipment and vehicles in reforestation activities. The report must include, but not be limited to, the number of contractors participating in the safety program in relation to the number operating in the State and a thorough summary of the substance of the training.

Sec. 3. Working group. The Commissioner of Labor shall convene a working group of interested persons, including, but not limited to, forestry industry representatives, representatives of forestry workers and representatives of the workers' compensation insurance industry to determine what data are available that reflect the safety conditions of forestry workers and related matters and what additional data should reasonably be collected to assess and improve safety conditions. By February 15, 2005, the commissioner shall report on the results of the working group's work and shall recommend to the joint standing committee of the Legislature having jurisdiction over labor matters a system of regularly collecting and reporting such information to policy makers to help inform their efforts to improve safety in the forestry industry.

See title page for effective date.

CHAPTER 617

H.P. 1446 - L.D. 1946

An Act To Promote the Coordination of School Calendars for Career and Technical Education Students

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX,

Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 20-A MRSA §4801, sub-§2-A is enacted to read:

2-A. Regional school calendars; plan; rules. Each school administrative unit shall work with affiliated units, as defined in section 8301-A, subsection 1, in its career and technical center or school administrative units in its career and technical region to develop and approve a regional school calendar that aligns the school calendars of sending schools with the school calendars of career and technical education programs in the region. The plan for a regional school calendar must meet the following requirements.

A. There may not be more than 9 dissimilar instructional days within each regional calendar.

B. When career and technical centers or regions overlap, there must be common calendars for each of the schools in those overlapping areas.

C. The authority for approving the regional school calendar must be within the school boards of the local school administrative units.

D. Regional school calendars may have provisions for waivers of the number of dissimilar days for extenuating circumstances.

E. Plans for regional school calendars must be approved and implemented in time for the 2005-2006 school year.

The commissioner shall adopt rules to establish requirements for regional school calendars. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 618

H.P. 678 - L.D. 921

An Act To Enact the Uniform Trust Code

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

PART A

Sec. A-1. 18-B MRSA is enacted to read: