

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST SPECIAL SESSION
August 29, 2013

SECOND REGULAR SESSION
January 8, 2014 to May 2, 2014

THE EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
EMERGENCY LAW IS
SEPTEMBER 6, 2013

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 1, 2014

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2014

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 6, 2014.

CHAPTER 473

S.P. 634 - L.D. 1643

**An Act To Enable the Bureau
of Labor Standards To Access
Federal Reimbursement by
Amending State Law To
Conform to Federal Law**

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

Sec. 1. 26 MRSA §43, as amended by PL 1971, c. 620, §13, is further amended to read:

**§43. Facts and statistics; seal; testimony; sources
confidential**

The director may furnish a written or printed list of interrogatories for the purpose of gathering such facts and statistics as are contemplated, to any person, or the proper officer of any corporation operating within the State, and may require full and complete answers thereto under oath. The director shall have a seal, and may take and preserve testimony, issue subpoenas, administer oaths and examine witnesses under oath in all matters relating to the duties required of ~~said the~~ bureau. Such testimony ~~shall must~~ be taken in some suitable place in the vicinity to which the testimony is applicable. Witnesses summoned and testifying before the director ~~shall must~~ be paid, from any funds at the disposal of the bureau, the same fees as witnesses before the Superior Court. In the report ~~of said bureau no use shall be made of the, except safety and health reports,~~ names of individuals, firms or corporations supplying the information called for by this section ~~may not be used~~ unless by written permission, such information being confidential and not for the purpose of disclosing personal affairs.

Sec. 2. 26 MRSA §44, as amended by PL 1975, c. 519, §4, is further amended to read:

§44. Right of access

The director as state factory inspector, and any authorized agent of the bureau, may enter any workplace as defined in section 1, provided by the State, ~~or by a~~ state agency, county, municipal corporation, school district or other public corporation or political subdivision when the same are open or in operation, for the purpose of gathering facts and statistics ~~such as are contemplated by~~ under sections 42 to 44, and may examine ~~into~~ the methods of ~~protection~~ protecting employees from danger ~~to employees~~ and the sanitary

conditions in and around ~~such the~~ buildings and places, and may make a record of such inspection. Upon petition of the director, a Superior Court in the county in which any refusal to permit entry or fact gathering or inspection was alleged to have occurred may order appropriate injunctive relief against any person in charge of ~~said the~~ workplace who refuses entry to the director or authorized agent of the bureau.

Each employer subject to this section shall make, keep and preserve, and make available to the director or ~~his the director's~~ authorized agent, upon request, such records regarding ~~his the employer's~~ activities relating to occupational safety and health as the director may prescribe by ~~regulation rule~~ as necessary or appropriate for the enforcement of section 45 or any ~~standard, rule or order promulgated~~ adopted pursuant to section 565 or for developing information regarding the causes and prevention of occupational accidents, diseases and illnesses. Any information obtained by the director ~~shall must~~ be obtained with a minimum burden upon employers, especially those employing a small work force.

The ~~director bureau~~ shall also issue ~~regulations~~ rules requiring that employers through posting of notices or other appropriate means, keep their employees informed of their protections and obligations under this chapter and chapter 6, including the provisions of applicable standards.

Sec. 3. 26 MRSA §45, as amended by PL 1979, c. 95, §1, is further amended to read:

§45. Notice of improper conditions

If, upon inspection, the director or any authorized agent of the bureau finds that an employer has violated a requirement of section 561-A or any rule or order promulgated adopted pursuant to section 565, ~~he the~~ director or the authorized agent of the bureau shall immediately issue a citation to the employer. Each citation ~~shall must~~ be in writing and ~~shall~~ describe with particularity the nature of the violation, including a reference to the provision of this Title or the standard, ~~rules, regulations or order~~ alleged to have been violated. In addition, the citation ~~shall must~~ fix a specific time for the abatement of the violation.

Each citation issued under this section, or a copy or copies ~~thereof,~~ ~~shall must~~ be prominently posted at or near each place where a violation referred to in the citation occurred or existed. In addition, employees must have access to their toxic exposure records or records of employee observation of exposure monitoring and measuring.

Sec. 4. 26 MRSA §561, as enacted by PL 1969, c. 454, is repealed.

Sec. 5. 26 MRSA §561-A is enacted to read:

§561-A. General duties

1. Employer duties. An employer has the following duties.

A. An employer shall furnish to each employee employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employee.

B. An employer shall comply with occupational safety and health rules adopted under this chapter.

2. Employee duties. An employee shall comply with occupational safety and health rules and all rules adopted under this chapter that are applicable to the employee's own actions and conduct.

Sec. 6. 26 MRSA §569, as amended by PL 2013, c. 70, Pt. B, §4, is repealed and the following enacted in its place:

§569. Rules

The rules of the bureau must, at a minimum, conform to the standards of the federal Occupational Safety and Health Administration. If a rule adopted by the bureau conflicts with the rule of another state agency with regard to occupational safety and health standards, including conflicts of rules regarding employee health exposure, the bureau rule supersedes the other state agency rule.

Sec. 7. 26 MRSA §570, as enacted by PL 1979, c. 95, §3, is amended to read:

§570. Discrimination

~~No person shall~~ A person may not discharge or in any manner discriminate against an employee because that ~~person~~ employee has filed any complaint concerning ~~an alleged violation of~~ occupational safety or health ~~standards~~ hazard or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by the employee on behalf of ~~himself~~ the employee or others of any right ~~granted him by~~ under this chapter.

Any employee who believes that ~~he~~ the employee has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after the alleged violation occurs, file a complaint with the director, alleging discrimination. Upon receipt of the complaint, the director shall conduct an investigation as ~~he deems~~ the director determines is appropriate. If upon investigation the director determines that the provisions of this chapter have been violated, ~~he~~ the director shall bring an action in the Superior Court in the county in which the alleged violation occurred. In any action, the Superior Court ~~shall have~~ has jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the em-

ployee to ~~his~~ the employee's former position with back pay.

Within 90 days of the receipt of a complaint filed under this section, the director shall notify the complainant of ~~his~~ the director's determination.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF
Regulation and Enforcement 0159**

Initiative: Allocates funds to conduct public sector enforcement and consultation services.

FEDERAL	2013-14	2014-15
EXPENDITURES FUND		
All Other	\$0	\$400,000
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FEDERAL EXPENDITURES	\$0	\$400,000
FUND TOTAL		

See title page for effective date.

CHAPTER 474

S.P. 663 - L.D. 1668

**An Act To Expedite Training
Waiver Decisions for
Unemployment Claimants by
Transferring Original
Jurisdiction from the
Unemployment Insurance
Commission to the Bureau of
Unemployment Compensation**

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

Whereas, the number of applications for training waivers to the Maine Unemployment Insurance Commission has increased dramatically in 2013 because the only path for many citizens to receive their unemployment benefits requires their participation in commission-approved training; and

Whereas, the commission does not possess adequate staff to efficiently process both the training waiver case load and its normal case load despite the use of mechanisms such as overtime; and

Whereas, training waiver cases are inherently time-sensitive because claimants rely upon their unemployment benefits to pay for necessities of daily living, such as food, medicine and shelter, and failure