

# MAINE STATE LEGISLATURE

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*State Of Maine  
121st Legislature*

*Second Regular Session and  
Second Special Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Labor*

*May 2004*

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*Maine State Legislature*



*Office Of Policy And Legal Analysis  
Office Of Fiscal And Program Review*

*121st Maine Legislature  
Second Regular Session and  
Second Special Session*

*Summary Of Legislation Before The Joint Standing Committees*

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing and joint select committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet ([www.state.me.us/legis/opla/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
- CONF CMTE UNABLE TO AGREE ..... Committee of Conference unable to agree; bill died
- DIED BETWEEN BODIES..... House & Senate disagree; bill died
- DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
- DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
- EMERGENCY ..... Enacted law takes effect sooner than 90 days
- FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
- FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
- FAILED MANDATE ENACTMENT ..... Bill imposing local mandate failed to get 2/3 vote
- NOT PROPERLY BEFORE THE BODY ..... Ruled out of order by the presiding officers; bill died
- INDEF PP ..... Bill Indefinitely Postponed
- ONTP..... Ought Not To Pass report accepted
- OTP-ND ..... Committee report Ought To Pass In New Draft
- P&S XXX..... Chapter # of enacted Private & Special Law
- PASSED..... Joint Order passed in both bodies
- PUBLIC XXX..... Chapter # of enacted Public Law
- RESOLVE XXX..... Chapter # of finally passed Resolve
- UNSIGNED..... Bill held by Governor
- VETO SUSTAINED ..... Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is April 30, 2004; and non-emergency legislation enacted in the Second Special Session is July 30, 2004. Four bills (LD's 1572, 1629, 1636 and 1637) that were considered at the First Special Session in August 2003 are also included in these summaries.

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## *Joint Standing Committee on Labor*

petition for determination of rates. The proposal would apply to landowners that own at least 400,000 acres in a labor market area.

**House Amendment "A" to Committee Amendment "C" (H-864)** proposed to clarify that rates set by the forestry rate proceedings panel apply only to a forest landowner, as defined in Committee Amendment "C," not to other owners of forest land.

See also LD 1964, Public Law 2003, chapter 674, which limits application of the rate-setting process.

### ***Enacted Law Summary***

Public Law 2003, chapter 670 establishes a process by which a state panel, upon petition, sets rates of compensation for harvesting and hauling services provided under contract on certain forestlands in the State. The rate-setting procedure applies only to services performed on lands owned by entities that own or control more than 400,000 acres of forest land in a labor market area. (See also, LD 1964, PL chapter 674 which further limits application of the law)

Chapter 670 sets forth legislative findings to support the need for the State to displace existing market forces in such situations, where overwhelming market power of such landowners results in the absence of a sufficiently competitive market.

A forest landowner subject to the law, or a group of 3 or more harvesters or haulers may begin a rate-setting process by filing a petition with the forestry rate proceeding panel created in the law. The panel is established under the State Board of Arbitration and Conciliation, and consists of 3 members: one neutral member who is a representative of the public on the State Board of Arbitration and Conciliation, one member representing the interests of forest landowners and one member representing the interests of harvesters and haulers. Members are appointed by the Governor. The cost of panel proceedings will be borne equally by parties to the rate-setting process. Panel decisions are subject to judicial review in the same manner as for other final agency actions. The law sets forth a list of factors for the panel to consider in setting rates, e.g., the impact of the rates on the competitive position of the landowner, harvester and hauler expenses, fair rates of return on investment, species of tree and method of harvesting, and environmental laws.

The law authorizes harvesters and haulers to form associations to participate in the rate determination proceedings. Those associations may also negotiate with forest landowners prior to the rate determination proceeding, but any tentative agreement reached in those negotiations must be reviewed and approved by the rate-setting panel.

**LD 1380**

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

**PUBLIC 616**

Sponsor(s)  
FAIRCLOTH  
EDMONDS

Committee Report  
OTP-AM

Amendments Adopted  
H-810

LD 1380 proposed to enact provisions relating to safety and working conditions for forestry workers engaged on a temporary or seasonal basis to perform reforestation activities in the Maine woods, such as clearing brush and thinning and planting trees.

## *Joint Standing Committee on Labor*

The bill proposed to require employers to offer housing, at no cost to the worker, near the work site to any forestry worker whose permanent residence is more than 50 miles from the work site and proposed to prohibit employers and others from making unjust or unreasonable profits by selling goods or services to workers in employer-provided housing. The bill proposed to require employers to provide safe transportation to and from the work site, at no cost to the worker, and require that the transportation meet certain safety standards. The bill proposed to require the employer to provide and pay for protective clothing and gear and the equipment necessary to perform the work.

The bill proposed to prohibit any person from discriminating or retaliating against any person who exercises the rights or protections provided by the new law or who files a complaint or participates in a proceeding under the law. The bill proposed civil penalties of up to \$2,500 per violation of the law, and up to \$50,000 for egregious violations. The bill also proposed to provide a private right of action for aggrieved persons and declare void any attempt to waive or modify the workers' rights under the law. All persons who are considered employers of a worker would be jointly and severally liable for violations of the law.

**Committee Amendment "A" (H-810)** proposed to remove provisions of the bill that imposed requirements regarding housing and equipment and retain provisions relating to transportation. It proposed to modify the definition of "employer" and modify the safety provisions of the bill.

The amendment proposed to add a requirement that the forestry industry report on a safety program to the joint standing committee of the Legislature having jurisdiction over labor matters. Finally, it proposed to require the Commissioner of Labor to convene a working group of interested persons to develop a system of collecting and reporting data for the purpose of improving the safety of forestry workers.

### ***Enacted Law Summary***

Public Law 2003, chapter 616 requires employers to provide safe transportation of certain forestry workers from their lodgings to their work sites, at no cost to the workers. The law applies to workers engaged on a temporary or seasonal basis to perform reforestation activities, such as clearing brush and thinning and planting trees. The transportation must meet the standards provided in the federal Migrant and Seasonal Agricultural Worker Protection Act, as well as additional standards, including a requirement for seat belts, first aid kits and emergency communication equipment. It limits the amount of time a worker can drive, prohibits use of vehicles other than buses that carry more than 11 persons, and prohibits attachment of equipment that interferes with operation of the vehicle.

Public Law 2003, chapter 616 prohibits discrimination or retaliation against any person who exercises the rights or protections provided by the new law or who files a complaint or participates in a proceeding under the law. It provides for civil penalties of up to \$1,000 per violation, enforceable by the Attorney General.

Public Law 2003, chapter 616 also requires the forestry industry to report on a safety program to the joint standing committee of the Legislature having jurisdiction over labor matters. Finally, it requires the Commissioner of Labor to convene a working group of interested persons to develop a system of collecting and reporting data for the purpose of improving the safety of forestry workers.