

MAINE STATE LEGISLATURE

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STATE OF MAINE
124TH LEGISLATURE
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the Second Regular Session of the 124th Maine Legislature coming from the

JOINT STANDING COMMITTEE ON LABOR

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STATE OF MAINE

124TH LEGISLATURE
SECOND REGULAR SESSION



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 124th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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:

CARRIED OVER Carried over to a subsequent session of the Legislature
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 HOUSES..... 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; bill died
ONTP (or Accepted ONTP report) Ought Not To Pass report accepted; bill died
P&S XXX..... Chapter # of enacted Private & Special Law
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

The effective date for non-emergency legislation enacted in the Second Regular Session of the 124th Legislature is Monday, July 12, 2010. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

Joint Standing Committee on Labor

Public Law 2009, chapter 521, in response to the decision of the Maine Supreme Judicial Court in Nichols v. S.D. Warren/Sappi, 2007 ME 103, 928 A.2d 732, provides that "disability insurance policy," as used in the coordination of benefits provisions of the Maine Workers' Compensation Act of 1992, does not include a life insurance policy that includes a disability feature if that policy was put in place as a result of collective bargaining.

LD 1543 An Act To Make Maine Laws Consistent with Recent Amendments to the United States Trade Act of 1974

PUBLIC 466

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE	OTP	

This bill makes statutory changes to reflect amendments to the United States Trade Act of 1974 made by the United States Trade and Globalization Adjustment Assistance Act of 2009 and corrects a cross-reference.

Enacted Law Summary

Public Law 2009, chapter 466 makes statutory changes to reflect amendments to the United States Trade Act of 1974 made by the United States Trade and Globalization Adjustment Assistance Act of 2009 and corrects a cross-reference. The referenced amendments increase the number of weeks Trade Readjustment Assistance benefits are potentially payable (up to an additional 26 weeks) based on the type and duration of training a worker is participating in and expand the Trade Adjustment Assistance Act to more workers and firms, including those providing services to firms impacted by trade, public sector workers, and workers whose firms have shifted production to any foreign country. Further, the referenced amendments expand training opportunities and provide increased flexibility of training options for workers. The law also increases the likelihood that an unemployed worker affected by trade will be able to maintain health insurance by increasing the health care tax credit premium subsidy from 65% to 80% and expanding the conditions under which the health care tax credit is payable.

LD 1545 An Act To Protect Maine Workers

PUBLIC 637

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON	OTP-AM MAJ OTP-AM MIN	S-495 S-536 JACKSON

This bill prohibits an employer from employing foreign laborers for five years if the employer violates the required proof of equipment ownership or foreign labor certification laws.

Committee Amendment "A" (S-495)

This amendment is the majority report of the Joint Standing Committee on Labor. It:

1. Prohibits an employer from employing foreign laborers for two years if the employer violates the required proof of logging equipment ownership or foreign labor certification laws;
2. Defines "logging equipment";
3. Eliminates the use of a lease as proof of ownership for logging equipment;

Joint Standing Committee on Labor

4. Directs an employer to notify the Maine Department of Labor at the time of filing for certification from the United States Department of Labor to hire a bond worker. The employer shall provide for the year in which a bond worker is employed the number of bond workers requested, a list of each piece of equipment a bond worker will operate, receipts of payment for equipment purchased in bona fide transactions and documentation of payment of any tax assessed on the equipment;
5. Directs the Commissioner of Labor to adopt rules to implement and enforce the provisions regarding proof of logging equipment ownership;
6. Raises the fine from between \$3,000 - \$15,000 to between \$10,000 - \$25,000 for a civil violation of the proof of ownership requirement;
7. Clarifies that the Attorney General may institute injunction proceedings for violations of the laws pertaining to employment of bond workers;
8. Directs the Department of Administrative and Financial Services, Bureau of Revenue Services to provide interagency support and field information to assist the Department of Labor in enforcing proof of equipment ownership for employers using bond workers; and
9. Eliminates the allowance in the unemployment law that permits certain foreign agricultural laborers to collect unemployment.

Committee Amendment "B" (S-496)

This amendment is the minority report of the Joint Standing Committee on Labor. It:

1. Defines "immediate family";
2. Clarifies the use of a lease as proof of ownership for logging equipment;
3. Directs an employer to notify the Maine Department of Labor at the time of filing for certification from the United States Department of Labor to hire a bond worker. The employer shall provide, for the year in which a bond worker is employed, the number of bond workers requested, a list of each piece of logging equipment a bond worker will operate, receipts of payment for logging equipment purchased in bona fide transactions and documentation of payment of any tax assessed on the equipment;
4. Directs the Commissioner of Labor to adopt rules to implement and enforce the provisions regarding proof of logging equipment ownership;
5. Clarifies that the Attorney General may institute injunction proceedings for violations of the laws pertaining to the employment of foreign agricultural laborers;
6. Directs the Department of Administrative and Financial Services, Bureau of Revenue Services to provide interagency support and field information to assist the Department of Labor in enforcing proof of equipment ownership for employers using bond workers; and
7. Eliminates the allowance in the unemployment laws that permits foreign agricultural laborers to collect unemployment.

This amendment does not affect any punishment, penalty or fine incurred before this amendment takes effect or any action or proceeding pending at the time of this amendment.

Senate Amendment "A" To Committee Amendment "A" (S-536)

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This amendment adds language to the laws governing proof of equipment ownership for employers using foreign laborers requiring that any lease used to demonstrate ownership must be a bona fide lease and sets forth the standards for determining whether a lease is bona fide.

The amendment requires employers of bond workers to notify the Department of Labor of the name and location of bond workers performing logging work in the State.

The amendment requires employers seeking bond workers to form and participate in a recruitment clearinghouse that assists in evaluating and referring potential logging occupation workers. The Department of Labor will work with the clearinghouse to ensure understanding of, and compliance with, recruitment and hiring requirements under federal regulations and state law.

The amendment requires the Department of Labor to maintain a list of contractors who are seeking to hire bond workers, and to require landowners to hire contractors from that list. Contractors who violate federal regulations or state law relating to bond workers must be removed from the list. A landowner who enters into or maintains a contract with an entity that is not on the list is subject to a fine of up to \$50,000.

The amendment establishes the Foreign Labor Certification Process Fund and adds an appropriations and allocations section.

Enacted Law Summary

Public Law 2009, chapter 637 prohibits an employer from employing foreign laborers for two years if the employer violates the foreign labor certification laws and makes such a violation a class E crime.

The law defines "bond worker" and "logging equipment".

It adds language to the laws governing proof of ownership of logging equipment for employers using bond workers. It requires that any lease used be a bona fide lease and sets forth the standards for determining whether a lease is bona fide. It also requires that the employer provide the Maine Department of Labor with contact information about the owner(s), board members, and agent of the leasing company.

The law directs an employer to notify the Maine Department of Labor at the time of filing for certification from the U.S. Department of Labor to hire a bond worker. It requires employers to provide to the Maine Department of Labor the number of bond workers requested, a list of each piece of logging equipment a bond worker will operate, receipts of payment for logging equipment purchased, and documentation of payment of any tax assessed on the logging equipment. The employer shall also notify the Maine Department of Labor within three days of the date on which a bond worker begins work in the state and provide the worker's name and the location of the work.

It prohibits an employer from employing foreign laborers for two years if the employer violated the proof of ownership requirements.

It directs the Commissioner of Labor to adopt rules to implement and enforce the bill.

The law raises the fine from between \$3,000 - \$15,000 to between \$10,000 - \$25,000 for a civil violation of proof of ownership, notification, or for employing a bond worker after violating the proof of ownership section of the law. It also clarifies that the Attorney General may institute injunction proceedings for violations.

It adds the Maine Revenue Service as interagency support to assist the Department of Labor in enforcing proof of equipment ownership for employers using bond workers.

The law requires employers seeking bond workers to form and participate in a recruitment clearinghouse that assists in evaluating and referring potential logging occupation workers. The Maine Department of Labor will work with

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the clearinghouse to ensure understanding of, and compliance with, recruitment and hiring requirements under federal regulations and state law. The Maine Department of Labor is required to maintain a list of contractors who are seeking to hire bond workers, and to require landowners to hire contractors from that list.

If an employment offer is conditioned on a skills test, it must be applied to all new applicants in that job classification and conducted in a reasonable location. If a skills test is required, the employer must submit a copy of the skills test to the Maine Department of Labor and if an applicant is rejected due to failing the skills test, a written statement explaining the failure must be provided to the applicant, the recruitment clearinghouse, and the Maine Department of Labor.

Contracts between landowners and logging employers must contain a provision that allows the landowner to terminate the contract if the logging employer violates federal regulations or state law. Contractors who violate federal regulations or state law relating to bond workers must be removed from the list. A landowner who enters into or maintains a contract with an entity that is not on the list is subject to a fine of up to \$50,000.

The law establishes the Foreign Labor Certification Process Fund.

It eliminates the allowance in the unemployment law that permits foreign agricultural laborers, from contiguous countries with whom the State has an agreement, from collecting unemployment from the State of Maine.

The law creates the necessary exemption for interagency cooperation between the Maine Department of Labor and the Maine Bureau of Revenue Services.

LD 1552 An Act To Improve Employment Opportunities for Maine Workers in the Forest Industry

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L JACKSON	OTP-AM MAJ ONTP MIN	H-738 H-779 MARTIN J L

This bill requires a landowner to notify the Department of Conservation, Bureau of Forestry if forest land is harvested by a harvester who uses bonded labor under the federal H-2A bonded labor program under 20 Code of Federal Regulations, Section 655.200 et seq. If a landowner or a harvester employed by or under contract to the landowner uses bonded labor under the federal H-2A bonded labor program or the landowner fails to provide the required notification, the land must be withdrawn from the Maine Tree Growth Tax Law and a penalty assessed under the commercial forestry excise tax to compensate the State for the General Fund contribution to the cost of forest fire protection activities.

Committee Amendment "A" (H-738)

This amendment clarifies the procedure in which a landowner must notify the Department of Conservation, Bureau of Forestry if forest land is harvested by a landowner or harvester who uses bonded labor under the federal H-2A bonded labor program. It indicates that the use of bonded labor on any part of a parcel of tree growth land during the two-year notification cycle will result, upon notification by Maine Revenue Services, in the loss of Maine Tree Growth Tax Law benefits and that the withdrawal penalty will be imposed. It further clarifies that the parcel of land will not benefit from the General Fund contribution to forest fire protection for the property tax year in which bonded labor is used.

House Amendment "B" (H-779)