

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

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Legislature*

OF THE

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Employers employing 4 employees or more in any day of the week are subject to this subchapter for that week, and in the count of employees there shall be included waiters, waitresses, doormen, bellhops and chambermaids, students, and members of the family of the employer all employees, including those otherwise exempt under section 663, subsection 3.'

Sec. 2. R. S., T. 26, Sec. 663, sub-Sec. 3, Paragraphs E, G, amended. Paragraphs E and G of subsection 3 of section 663 of Title 26 of the Revised Statutes are amended to read as follows:

'E. Any individual engaged in the activities of a public-supported nonprofit organization or in a program controlled by an educational nonprofit organization or employed in a private nursing home; or employed in a private hospital.'

'G. Any individual employed in the catching, taking, propagating, harvesting, cultivating or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, or in the first processing, canning or packing such marine products at sea as incident to, or in conjunction with, such fishing operations, including the going to and returning from work and including employment in the loading, and unloading when performed by any such employee or packing of such products for shipment or in propagating, processing (other than canning), marketing, freezing, curing, storing or distributing the above products or by products thereof; or any individual employed as a smoked fish worker.'

Sec. 3. R. S., T. 26, Sec. 663, subsection 5, amended. Subsection 5 of section 663 of Title 26 of the Revised Statutes is amended to read as follows:

'5. Wages. "Wages" paid to any employee includes compensation paid to such employee in the form of legal tender of the United States, checks on banks convertible into cash on demand and includes the reasonable cost to the employer who furnishes such employee board, or lodging or other services and benefits;'

Sec. 4. R. S., T. 26, Sec. 663, subsection 7, additional. Section 663 of Title 26 of the Revised Statutes is amended by adding a new subsection 7 to read as follows:

'7. Counter waiter or waitress. "Counter waiter or waitress," and employee who works at a counter and who is engaged for 25 percent or more of his or her working time in duties other than the serving of customers, including but not limited to preparation of food, dishwashing and cleaning.'

Sec. 5. R. S., T. 26 Sec. 664, amended. Section 664 of Title 26 of the Revised Statutes is amended to read as follows:

**'Sec. 664. Compliance required**

By reason of the declaration of policy set forth in section 661 and in the protection of the industry or business and in the enhancement of public interest, health, safety and welfare, it is declared unlawful for any employer to employ any employee except as otherwise provided in this subchapter at the rate of less than \$1 \$1.15 per hour during the first year from the effective date of this Act, and not less than \$1.25 per hour thereafter; provided, however, that employees of private nursing homes and private hospitals may be paid at the rate of not less than \$1 per hour during the first year from the effective date of this Act, not less than \$1.15 per hour during the 2nd year from the effective date of this Act, and not less than \$1.25 per hour thereafter.'

Sec. 6. R. S., T. 26 Sec. 665, subsection 1, amended. Subsection 1 of section 665 of Title 26 of the Revised Statutes is amended to read as follows:

'1. Examination of records, books; copies. Every employer subject to this subchapter shall keep a true and accurate record of the hours worked by each employee and of the wages paid; and the, such records to be preserved by the employer for a period of at least 3 years; and shall furnish to each employee with each payment of wages a statement which shall clearly show the hours, total earnings and itemized deductions. The commissioner or

his authorized representative may, and upon written complaint setting forth the violation of section 664, shall have authority to enter the place of business or employment of any employer or employees in the State, as defined in section 663, for the purpose of examining and inspecting such records; and copy any or all of such records as he or his authorized representative may deem necessary or appropriate. Any and all information so received shall be considered as confidential and shall not be divulged to any other person or agency except insofar as may be necessary for the enforcement of this subchapter.'

Sec. 7. R. S., T. 26, Sec. 669, repealed. Section 669 of Title 26 of the Revised Statutes is repealed as follows:

'Sec. 669. Enforcement

Whenever the commissioner has information that any employer is violating this subchapter, he shall notify such employer immediately by registered mail of such violation and order such employer to comply with this subchapter. If such employer fails or refuses to comply with this subchapter, the county attorney of the county where the violation occurs shall, upon notification by the commissioner or upon the sworn complaint of any other person, institute criminal action against such employer.'

Sec. 8. R. S., T. 26, Sec. 670, amended. Section 670 of Title 26 of the Revised Statutes is amended to read as follows:

'Sec. 670. Employees' remedies

Any employer who continues in violation of any provision of section 664 after having received notice from the commissioner shall be liable to the employee or employees affected thereby for the amount of unpaid minimum wages. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages under this subchapter, such judgment shall include, in addition to the unpaid wages adjudged to be due, an additional amount equal to such wages as liquidated damages, and

costs of suit including a reasonable attorney's fee.'

Sec. 9. R. S., T. 26, & 671, amended. Section 671 of Title 26 of the Revised Statutes is amended to read as follows:

'Sec. 671. Penalties

Any employer who violates this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$50 nor more than \$200.

Any employer, who discharges or in any other manner discriminates against any employee because such employee makes a complaint to the commissioner or to the county attorney concerning a violation of this subchapter, shall be punished by a fine of not less than \$50 nor more than \$200.

In the event of the violation of any of the provisions of this subchapter, the Attorney General may institute injunction proceedings in the Superior Court to enjoin further violation thereof.'

The SPEAKER: The question before the House now is on the adoption of House Amendment "B". The Chair recognizes the gentleman from Portland, Mr. Cottrell.

Mr. COTTRELL: Mr. Speaker and Ladies and Gentlemen of the House: This amendment contains provisions of a minimum wage bill that I was asked to co-sponsor with Representative Brewer. The particular provision in this amendment that I am interested in is the one which pertains to employees under nineteen who are in educational institutions. Now they have always been exempted from the minimum wage under our laws and I think that that exemption should be retained.

I'm not going to give a long discourse on the reasons for it but I think it is quite obvious that those who are working in the summertime, who are regularly attending school, should have a little free bargaining power with their employers and should not come under the over-time provisions. In Senate Amendment "B" to this L. D. 1504, all those under age nineteen working in summer camps, boys and girls summer camps, are exempt and I repeat,

I think that all employees under age nineteen working, who are regularly enrolled in school, should also be continued to be exempt from the minimum wage law.

The SPEAKER: The Chair at this time would like to recognize in the balcony of the House, thirty-seven pupils of the seventh and eighth grades at the Viola Rand Elementary School at Bradley. They are accompanied by their Principal Christopher Bates and five adults. They are the guests of the gentleman from Old Town, Mr. Binnette. On behalf of the House the Chair welcomes you and we hope that your visit will be both educational and enjoyable. (Applause)

The SPEAKER: The Chair recognizes the gentleman from Farmingdale, Mr. Peaslee.

Mr. PEASLEE: Mr. Speaker and Ladies and Gentlemen of the House: I have no objections to a minimum wage hike, but much has been said about our finding jobs for our kids and keeping them here in the state. And I know if this bill is passed without this amendment, I'll never hire any more kids to work for me. So I hope that you will support it.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Levesque.

Mr. LEVESQUE: Mr. Speaker, Ladies and Gentlemen of the House: I certainly feel that in some areas the camping business in the State of Maine does need protection under a minimum wage law such as we have before us. Although it was the feeling of the committee that we should limit these minimum wage laws to counselors and junior counselors, anybody else that is going repeatedly year after year to these summer camps are in most cases receiving now a minimum wage for their services. It is only the odd case that is not now presently receiving a minimum wage in the State of Maine. So I don't feel that in due justice to the industries we have kept the counselors and junior counselors in there as not being part of the minimum

wage law in our state, and any regular employees that they have there year after year should at least receive a basic minimum wage for their service as far as summer camps are concerned. So, therefore, I move the indefinite postponement of this amendment.

The SPEAKER: The question before the House now is on the motion of the gentleman from Madawaska, Mr. Levesque, that House Amendment "B" be indefinitely postponed.

The Chair recognizes the gentleman from Bath, Mr. Brewer.

Mr. BREWER: Mr. Speaker, Ladies and Gentlemen of the House: I think we're all pretty much in accord that the minimum wage in the State of Maine should be increased. I think it is a question of how far we want to go before we start hurting small businesses within the state, of which Maine is made up primarily of small businesses. The minimum wage bill is not going to hurt our larger industries, but they are few in number. Now this is a nonpartisan bill which I was happy to co-sponsor with the gentleman from Portland, Mr. Cottrell. And this amendment brings the minimum wage bill before you back to L. D. 443, which in our mind was a sound bill. It increased the minimum wage in two steps to a dollar from a dollar to a dollar fifteen, and then the following year to a dollar and a quarter; and also, a three step plan regarding the nursing homes to a dollar, a dollar fifteen and a dollar twenty-five in three years.

The gentleman from Portland, Mr. Cottrell, has explained the nineteen year olds. To me, this will hurt the boys in this area because there will be a lack of jobs, but another point I would like to bring out at this time is what it is going to do, the present bill before you, as far as your non-profit hospitals go. You had placed before you on your desks, awhile ago, some interesting figures. And I'm not going to read them to you because I think probably you have absorbed them as far as your particular area. It's not just the minimum wage we are

talking about as far as non-profit hospitals go, it's the escalation that is caused by this. In other words, if you bring some employees in your non-profit hospitals up to a certain level, you have to raise salaries on the level where they are getting the minimum wage. It is going to pose an awful problem.

Now this bill that we have, 443 that the gentleman from Portland, Mr. Cottrell and I sponsored, is the one that was recommended by the Department of Labor and Industry in the State of Maine and it strengthens the administration of the Department and they feel that this is as far as we should go at this time. I would hope that the indefinite postponement of this amendment does not prevail.

The SPEAKER: The Chair recognizes the gentleman from East Millinocket, Mr. Birt.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning in support of the motion of the gentleman from Madawaska, Mr. Levesque, to indefinitely postpone this amendment. I introduced, along with the good gentleman from Eagle Lake, Mr. Martin, one of the minimum wage bills, the main provision of which was time and a half after forty-eight hours. Time and a half has become a penalty factor to induce various segments of industry and employers to increase their work force by putting more people to work and this is the only way that labor has found to be able to effectively do it, is to put a penalty clause in.

As I understand this amendment, this amendment will remove the time and a half provision and I think this would be moving in the wrong direction. I consequently would hope that the House will support the indefinite postponement of this amendment.

Mr. Brewer of Bath requested a division.

The SPEAKER: The question before the House is on the motion of the gentleman from Madawaska, Mr. Levesque, that House Amendment "B" be indefinitely postponed. The gentleman from Bath, Mr. Brewer, requests a divi-

sion. All those in favor of House Amendment "B" being indefinitely postponed will kindly rise and remain standing until the monitors have made and returned the count.

A division of the House was had. Forty-nine having voted in the affirmative and seventy-four having voted in the negative, the motion did not prevail.

The SPEAKER: The question before the House is on the adoption of House Amendment "B". Is it now the pleasure of the House that House Amendment "B" be adopted.

Thereupon, House Amendment "B" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Madawaska, Mr. Levesque.

Mr. LEVESQUE: Mr. Speaker, I now move that Senate Amendment "A" to Senate Amendment "B" be indefinitely postponed.

Senate Amendment "B" was then read by the Clerk.

Senate Amendment "A" to Senate Amendment "B" was next read by the Clerk.

The SPEAKER: The question before the House now is on the motion of the gentleman from Madawaska, Mr. Levesque, that Senate Amendment "A" to Senate Amendment "B" be indefinitely postponed. The Chair recognizes the gentleman from Augusta, Mr. Katz.

Mr. KATZ: Mr. Speaker, I pose a question through the Chair. Apparently, what we have done is substituted one bill for another. Now we have an amendment on a bill that no longer exists. I wonder if the gentleman from Madawaska would explain the effect of postponement of this amendment.

The SPEAKER: The gentleman from Augusta, Mr. Katz, poses a question through the Chair to the gentleman from Madawaska, Mr. Levesque, who may answer if he so desires.

Mr. LEVESQUE: Mr. Speaker, Ladies and Gentlemen: The indefinite postponement of Senate Amendment "A" is only to eliminate the word "hotels" as has been added on to this amendment. In previous amendments the nursing homes and hospitals have already been taken out. By this amendment

they have added the word "hotel." This is only to eliminate the word "hotel" in the bill.

The SPEAKER: The Chair recognizes the gentleman from Milbridge, Mr. Kennedy.

Mr. KENNEDY: Mr. Speaker, I would pose a question through the Chair to the gentleman from Portland, Mr. Cottrell, and inquire if the processes are cared for under his amendment, the freezing of fruits, berries and the canning of sardines?

The SPEAKER: The gentleman from Milbridge, Mr. Kennedy, has posed a question to the gentleman from Portland, Mr. Cottrell, who may answer if he so desires.

The Chair recognizes the gentleman from Bath, Mr. Brewer.

Mr. BREWER: Mr. Speaker, in this amendment as proposed by the gentleman from Portland, Mr. Cottrell, under G it exempts the packing of products for shipment, processing other than canning, marketing, freezing, curing, storing or distributing the above products or by products thereof, or any individual employed as a smoked fish worker.

(On motion of Mr. Kennedy of Milbridge, tabled pending the motion of Mr. Levesque of Madawaska that Senate Amendment "A" to Senate Amendment "B" be indefinitely postponed and specially assigned for later in today's session.)

#### **Emergency Measure Tabled Until Later in Today's Session**

An Act Relating to Relocation Assistance in State Highway Projects (H. P. 1139) (L. D. 1559)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed.

The SPEAKER: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker, Members of the House: L. D. 1559, An Act Relating to Relocation Assistance in State Highway Projects, this act is an enabling act to permit the State Highway Commission to match federal funds for the purpose of paying an amount not to exceed two hundred dollars in the

case of an individual family or not to exceed three thousand dollars in the case of a business concern, on moving costs for individuals, families, business concerns forced to move by reason of highway construction, due to the fact that such payments by the state should be in the similar category to the payments of the state sharing the cost of moving public utility plants in connection with interstate systems, when such plant is located in the public right-of-way. It was deemed necessary to provide state funds for L. D. 1559 from the General Fund, State General Fund. The appropriation from the General Fund was to be eighty-one thousand nine hundred for the next biennium.

Now the State of Maine Supreme Court gave an advisory opinion to the effect that in the case of the state share of the cost of moving utility plants, payments had to be made from the General Fund and could not be taken from the Highway Fund because of the anti-diversified clause in the State Constitution. Now having checked with George C. West, Deputy Attorney General, and he agrees that there is a question as to the legality of the bill with the amendment Filing No. S-268 or H-358, providing funds come from the State — come from the Highway Fund.

Now due to these facts it appears almost impossible to appropriate money necessary for this bill from the General Fund and further because the question as to the legality of the bill should be passed with money coming from the Highway Fund, I believe that I will move the indefinite postponement of this bill and its accompanying amendments. And I hope the House will see fit to support the motion before the House.

The SPEAKER: The question before the House now is on the motion of the gentleman from Enfield, Mr. Dudley, that item 1, An Act Relating to Relocation Assistance in State Highway Projects, be indefinitely postponed.

The Chair recognizes the gentleman from Portland, Mr. D'Alfonso.

Mr. D'ALFONSO: Mr. Speaker, Ladies and Gentlemen of the