

An Act To Create a Logging Dispute Resolution Board and To Require Proof of Ownership Documents To Be Available within 14 Days of Request

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

Sec. 1. 5 MRSA §12004-B, sub-§11 is enacted to read:

11.

Logging Dispute Resolution Board

Not Authorized

26 MRSA §874-A

Sec. 2. 26 MRSA §872, sub-§2, as amended by PL 2011, c. 620, §1, is further amended to read:

2. Proof of ownership required. An employer in this State who applies for a bond worker in a logging occupation shall provide proof of the employer's ownership of any logging equipment used by that worker in the course of employment, including proof of ownership of at least one piece of logging equipment for every 2 bond workers employed by the employer in a logging occupation. The employer shall provide proof of ownership as required by this subsection on a form provided by the Commissioner of Labor. The proof required by this subsection must include, but not be limited to, a receipt for payment for the equipment purchased in a bona fide transaction and documentation of payment of any tax assessed on the equipment pursuant to Title 36, chapter 105 for the year in which the bond worker is employed by the employer. Proof of ownership must be carried in the equipment and, upon request by the department or its designee, the operator of equipment subject to this section shall provide proof of ownership. If proof of ownership is not provided within ~~30~~ 14 calendar days of such a request, a fine of not less than \$5,000 and not more than \$25,000 may be assessed against that employer and collected by the Commissioner of Labor. Notwithstanding section 3, information regarding proof of ownership is not confidential and may be disclosed to the public. If the equipment is leased by the employer, the employer shall provide the name, address and telephone number of the leasing company and its affiliates and subsidiaries; the names, addresses and telephone numbers of the leasing company's owner or owners, its agent and members of its board of directors; and a copy of the lease document. A lease is sufficient to meet the ownership requirement of this section only if it is a bona fide lease and:

- A. The lease consists of an arm's length transaction between unrelated entities or is a transfer of equipment between affiliated companies;
- B. The lease document contains a specific duration and lease amount;
- C. The lessor is not an entity owned or controlled by a bond worker or a bond worker's spouse, parent, child, sibling, aunt, uncle or cousin or person related to a bond worker in the same manner by marriage, or by any combination of a bond worker and the bond worker's family members described in this paragraph;
- D. The lessor is a leasing business as evidenced by a lease of logging equipment to at least 3 different, unrelated entities within each of the past 3 years; and
- E. The lessor provides proof of payment of personal property tax assessed on the leased equipment.

Sec. 3. 26 MRSA §872, sub-§2-A, as corrected by RR 2013, c. 1, §42, is amended to read:

2-A. Notification. An employer filing for certification from the United States Department of Labor to hire a bond worker to operate logging equipment shall at the time of filing notify the Maine Department of Labor and provide, for the year in which the bond worker is employed, the number of bond workers requested; a

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list of each piece of logging equipment, including serial number, a bond worker will operate; receipts for payment for the logging equipment purchased in bona fide transactions; and documentation of payment of any tax assessed on the logging equipment pursuant to Title 36, chapter 105. An employer shall notify the Maine Department of Labor within ~~30~~ 14 calendar days of the date on which a bond worker begins work in the State and shall specify the name of the bond worker and the anticipated locations where the bond worker will be conducting work and shall provide a copy of the United States Customs and Border Protection's entry form for that worker. The employer shall certify to the Maine Department of Labor that the employer is not requiring the bond worker to engage in point-to-point hauling of forest products within the State or to otherwise violate federal cabotage laws. If the notification is not provided within ~~30~~ 14 calendar days of the date on which a bond worker begins work, a fine of not less than \$5,000 and not more than \$25,000 must be assessed against that employer and collected by the Commissioner of Labor.

Sec. 4. 26 MRSA §874-A is enacted to read:

§874-A. Logging Dispute Resolution Board

1. Board established. The Logging Dispute Resolution Board, referred to in this section as "the board," is established in Title 5, section 12004-B, subsection 11 and pursuant to this section as an independent board within the Department of Labor. The purpose of the board is to hear disputes related to the logging industry, including disputes regarding pay violations, payout amounts, contract violations, hiring disputes and other topics as determined appropriate by the board.

2. Members; appointment. The board consists of 3 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having Jurisdiction over labor matters and to confirmation by the Legislature. The Governor shall appoint new members within 30 days of submission of an appointee's name. In the event that an appointment is not made within the required timeframe, the submission shall move forward to the review by the joint standing committee of Legislature having jurisdiction over labor matters and to confirmation by Legislature. Members must include the following:

A. One member representing the Maine Forest Products Council or its successor organization;

B. One member with experience in dispute resolution and arbitration representing the New England Loggers Cooperative appointed from a list submitted by the AFL-CIO or its successor organization; and

C. One member of the State Board of Arbitration and Conciliation, as established by section 931, who serves as chair.

3. Terms. Members of the board are appointed for terms of 3 years. A member may not serve more than 2 consecutive terms, plus any initial term of less than 3 years.

4. Quorum. Two members of the board constitute a quorum. A vacancy in the board does not impair the power of the remaining members to exercise all the powers of the board.

5. Powers and duties. The board has all powers as are necessary to carry out its functions. The board may be represented by legal counsel. The board may delegate any duties as necessary.

6. Costs. Costs of arbitration are borne by the party against whom the board decides.

SUMMARY

This bill establishes the Logging Dispute Resolution Board to hear disputes related to the logging industry, including disputes regarding pay violations, payout amounts, contract violations, hiring disputes and other topics as deemed appropriate by the board. The bill also changes the time frame for a bond worker in a logging occupation to provide proof of the employer's ownership of any logging equipment used by that

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worker in the course of employment from 30 to 14 calendar days. It requires employers to certify to the Department of Labor that the employer is not requiring a bond worker to engage in point-to-point hauling of forest products within the State or to otherwise violate federal cabotage laws. It requires that costs of arbitration are borne by the party against whom the board decides.