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An Act To Amend the Laws Governing Overtime

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

Whereas, this legislation changes the law governing the payment of overtime for those state employees engaged in fire protection activities and law enforcement activities, bringing state law into compliance with federal law; and

Whereas, this legislation is necessary to resolve conflicts between controlling statute, contracts and scheduling practices; and

Whereas, it is necessary to immediately effectuate this change in law, as it relates to the ability of employers and employees to maintain current work schedules; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 26 MRSA §664, sub-§3, ¶F, as amended by PL 2017, c. 219, §15, is further amended to read:

F. The canning; processing; preserving; freezing; drying; marketing; storing; packing for shipment; or distributing of:

- (1) Agricultural produce;
- (2) Meat and fish products; and
- (3) Perishable foods.

Individuals employed, directly or indirectly, for or at an egg processing facility that has over 300,000 laying birds must be paid overtime in accordance with this subsection; and

Sec. 2. 26 MRSA §664, sub-§3, ¶K, as enacted by PL 2011, c. 681, §3, is amended to read:

K. A driver or driver's helper who is not paid hourly and is subject to the provisions of 49 United States Code, Section 31502 as amended or to regulations adopted pursuant to that section, who is governed by the applicable provisions of federal law with respect to payment of overtime.

Nothing in this paragraph may be construed to limit the rights of parties to negotiate rates of pay for drivers and driver's helpers who are represented for purposes of collective bargaining by a labor organization certified by the National Labor Relations Board or who are employed by an entity that is party to a contract with the Federal Government or an agency of the Federal Government that dictates the minimum hourly rate of pay to be paid a driver or driver's helper.; and

Sec. 3. 26 MRSA §664, sub-§3, ¶L is enacted to read:

L. Public employees subject to overtime pursuant to this subchapter engaged in fire protection activities, as defined in the federal Fair Labor Standards Act, 29 United States Code, Section 203(y), or public employees engaged in law enforcement activities, as defined in 29 Code of Federal Regulations, Section 553.211, in accordance with 29 United States Code, Section 207(k).

Sec. 4. Retroactivity. Notwithstanding any law to the contrary, this Act applies retroactively to April 1, 2016.

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

SUMMARY

Current law specifically exempts certain employees from the laws requiring the payment of overtime. This bill adds to the list of exempted employees those state employees in the executive branch and the judicial branch engaged in fire protection activities and in law enforcement activities and conforms state law to the federal Fair Labor Standards Act.