

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND FOURTEEN

S.P. 634 - L.D. 1643

**An Act To Enable the Bureau of Labor Standards To Access Federal Reimbursement by Amending State Law To Conform to Federal Law**

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

**Sec. 1. 26 MRSA §43**, as amended by PL 1971, c. 620, §13, is further amended to read:

**§43. Facts and statistics; seal; testimony; sources confidential**

The director may furnish a written or printed list of interrogatories for the purpose of gathering such facts and statistics as are contemplated, to any person, or the proper officer of any corporation operating within the State, and may require full and complete answers thereto under oath. The director shall have a seal, and may take and preserve testimony, issue subpoenas, administer oaths and examine witnesses under oath in all matters relating to the duties required of ~~said~~ the bureau. Such testimony ~~shall~~ must be taken in some suitable place in the vicinity to which the testimony is applicable. Witnesses summoned and testifying before the director ~~shall~~ must be paid, from any funds at the disposal of the bureau, the same fees as witnesses before the Superior Court. In the report ~~of said bureau no use shall be made of the, except safety and health reports,~~ names of individuals, firms or corporations supplying the information called for by this section may not be used unless by written permission, such information being confidential and not for the purpose of disclosing personal affairs.

**Sec. 2. 26 MRSA §44**, as amended by PL 1975, c. 519, §4, is further amended to read:

**§44. Right of access**

The director as state factory inspector, and any authorized agent of the bureau, may enter any workplace as defined in section 1, provided by the State, ~~or by a~~ state agency, county, municipal corporation, school district or other public corporation or political subdivision when the same are open or in operation, for the purpose of gathering facts and statistics ~~such as are contemplated by~~ under sections 42 to 44, and may examine ~~into~~

the methods of ~~protection~~ protecting employees from danger ~~to employees~~ and the sanitary conditions in and around ~~such~~ the buildings and places, and may make a record of such inspection. Upon petition of the director, a Superior Court in the county in which any refusal ~~to permit entry or fact gathering or inspection~~ was alleged to have occurred may order appropriate injunctive relief against any person in charge of ~~said~~ the workplace who refuses entry to the director or authorized agent of the bureau.

Each employer subject to this section shall make, keep and preserve, and make available to the director or ~~his~~ the director's authorized agent, upon request, such records regarding ~~his~~ the employer's activities relating to occupational safety and health as the director may prescribe by ~~regulation~~ rule as necessary or appropriate for the enforcement of section 45 or any ~~standard, rule or order promulgated~~ adopted pursuant to section 565 or for developing information regarding the causes and prevention of occupational accidents, diseases and illnesses. Any information obtained by the director ~~shall~~ must be obtained with a minimum burden upon employers, especially those employing a small work force.

The ~~director~~ bureau shall also issue ~~regulations~~ rules requiring that employers through posting of notices or other appropriate means; keep their employees informed of their protections and obligations under this chapter and chapter 6, including the provisions of applicable standards.

**Sec. 3. 26 MRSA §45**, as amended by PL 1979, c. 95, §1, is further amended to read:

**§45. Notice of improper conditions**

If, upon inspection, the director or any authorized agent of the bureau finds that an employer has violated a requirement of section 561-A or any rule or order promulgated adopted pursuant to section 565, ~~he~~ the director or the authorized agent of the bureau shall immediately issue a citation to the employer. Each citation ~~shall~~ must be in writing and ~~shall~~ describe with particularity the nature of the violation, including a reference to the provision of this Title or the standard, rules, regulations or order alleged to have been violated. In addition, the citation ~~shall~~ must fix a specific time for the abatement of the violation.

Each citation issued under this section, or a copy or copies ~~thereof~~, ~~shall~~ must be prominently posted at or near each place where a violation referred to in the citation occurred or existed. In addition, employees must have access to their toxic exposure records or records of employee observation of exposure monitoring and measuring.

**Sec. 4. 26 MRSA §561**, as enacted by PL 1969, c. 454, is repealed.

**Sec. 5. 26 MRSA §561-A** is enacted to read:

**§561-A. General duties**

**1. Employer duties.** An employer has the following duties.

A. An employer shall furnish to each employee employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employee.

B. An employer shall comply with occupational safety and health rules adopted under this chapter.

**2. Employee duties.** An employee shall comply with occupational safety and health rules and all rules adopted under this chapter that are applicable to the employee's own actions and conduct.

**Sec. 6. 26 MRSA §569**, as amended by PL 2013, c. 70, Pt. B, §4, is repealed and the following enacted in its place:

**§569. Rules**

The rules of the bureau must, at a minimum, conform to the standards of the federal Occupational Safety and Health Administration. If a rule adopted by the bureau conflicts with the rule of another state agency with regard to occupational safety and health standards, including conflicts of rules regarding employee health exposure, the bureau rule supersedes the other state agency rule.

**Sec. 7. 26 MRSA §570**, as enacted by PL 1979, c. 95, §3, is amended to read:

**§570. Discrimination**

~~No person shall~~ A person may not discharge or in any manner discriminate against an employee because that ~~person~~ employee has filed any complaint concerning ~~an~~ alleged violations of occupational safety or health standards ~~hazard~~ or has testified or is about to testify in any proceeding relating to employee safety and health or because of the exercise by the employee on behalf of ~~himself~~ the employee or others of any right ~~granted him by~~ under this chapter.

Any employee who believes that ~~he~~ the employee has been discharged or otherwise discriminated against by any person in violation of this section may, within 30 days after the alleged violation occurs, file a complaint with the director, alleging discrimination. Upon receipt of the complaint, the director shall conduct an investigation as ~~he deems~~ the director determines is appropriate. If upon investigation the director determines that the provisions of this chapter have been violated, ~~he~~ the director shall bring an action in the Superior Court in the county in which the alleged violation occurred. In any action, the Superior Court ~~shall have~~ has jurisdiction, for cause shown, to restrain violations of this section and order all appropriate relief, including rehiring or reinstatement of the employee to ~~his~~ the employee's former position with back pay.

Within 90 days of the receipt of a complaint filed under this section, the director shall notify the complainant of ~~his~~ the director's determination.

**Sec. 8. Appropriations and allocations.** The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF**  
**Regulation and Enforcement 0159**

Initiative: Allocates funds to conduct public sector enforcement and consultation services.

<b>FEDERAL EXPENDITURES FUND</b>	<b>2013-14</b>	<b>2014-15</b>
All Other	\$0	\$400,000
<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<u>\$0</u>	<u>\$400,000</u>