



## **Testimony of**

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**Before the Joint Standing Committee on Labor and Housing to LD 372, An Act to Increase Enforcement and Accountability for Wage and Hour Violations**

**Tuesday, February 6, 2024**

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, my name is Dana Doran, and I am the Executive Director of the Professional Logging Contractors of the Northeast (PLC). The PLC is a trade association that represents logging and associated trucking contractors throughout the Northeast, predominately in the state of Maine.

As background, the PLC was created in 1995 to give logging and associated trucking contractors a voice in a rapidly changing forest products industry. As of 2021, logging and trucking contractors in Maine employed over 3,000 people directly and were indirectly responsible for the creation of an additional 2,500 jobs. This employment and the investments that contractors make contributed \$582 million to the state's economy. Our membership, which includes 200 contractor members and an additional 120 associate members, employs more than 75% of the individuals who work in this industry and is also responsible for 80% of Maine's annual timber harvest.

Thank you for providing me the opportunity to testify on behalf of our membership in opposition to LD 372, "An Act to Increase Enforcement and Accountability for Wage and Hour Violations".

It is important to note, Maine already has strict penalties in statute for wage and hour violations which provide the Director of the Bureau of Labor Standards the authority to assess a forfeiture against an employer who violates provisions of chapter 7, subchapters I to IV. This authority was actually used in 2023 regarding a timber harvesting company in Fort Kent that violated provisions of the federal Fair Labor Standards Act.

The bill language before you is very concerning to our membership and should be concerning to every business owner in the state. Not only would it expand the Bureau's oversight authority to an expanded set of statutory provisions, but it would increase the Bureau's power to levy extremely heavy penalties upon small business in the state at the same time. These are the very same small businesses that are struggling to hire new employees in a very competitive employment market and the very same small businesses that would be incredulous to not treat

their employees fairly for the work that they have accomplished. Reputation in business is everything and I can assure you that our members are fighting for their collective lives right now and being heavy handed and dishonest is not how you further your reputation in rural Maine as a model employer.

The new language before you simply goes too far by greatly expanding the scope of the additional penalties levied by the Bureau by including ALL of Chapter 7 and ALL of Chapter 15. These sections would include, for example, prevailing wage violations, minimum wage violations, and paid family medical leave violations. The rules for paid family medical leave haven't even been written yet, but this legislation is proposing how employers will be penalized, should they violate them. This is a massive expansion of power that could be wielded by the DOL to penalize businesses, almost unilaterally.

The amendment also grants the Bureau of Labor Standards and the Department of Labor authority to oversee the collection and payment of the unpaid wages, double the amount of the liquidated damages, and tacks on an unknown "reasonable" rate of interest to the penalty. Who decides the reasonable rate of interest on the unpaid wages? What check and balance is there for the employer if an erroneous claim is made?

Lastly, the PLC is concerned about the possible bias regarding the appeals process. As it stands there is no third party involved with the judgement on the employers. The appeal process is conducted completely within the Department of Labor, and a business owner or employer would not be afforded due process because the Department would play judge and jury in the matter. If the Department is issuing the complaint and issuing the penalty, how is that due process for the employer?

From our view, if a business is in violation of Chapter 7, subchapters 1-4, they should be held accountable using current Maine law and the Department should study the extent to how companies in Maine are violating other provisions of law why this legislation is necessary. Until they do, it most certainly seems that this legislation is a solution in search of a problem and is meant only to assist the employee with what might happen in the future while vilifying the employer community.

Lastly, LD 372 will go above and beyond what is established at the federal level. Maine should not become an outlier regarding the recovery of unpaid wages and liquidated damages and/or promulgating expanded power at the state level which is in conflict with federal law.

In my experience, employers are genuinely trying to do the right by their employees. Most logging and trucking firms in Maine are family-based businesses that pride themselves on providing stable places of employment and treating their employees like they are family members. They are committed to the hard-working people they employ, and it is hard to believe there is an unmanageable number of cases against employers that would justify this type of legislative action.

As written, LD 372 is truly a solution looking for a problem and creates a situation where employers will constantly be looking over their shoulder to see if big brother will come after them. This is not the time to be actively working to punish hard-working Mainer small businesses. I encourage you to vote ought not to pass on LD 327 and thank you for your service to the people of Maine.