



Testimony of

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**Before the Joint Standing Committee on Labor on LD 1587, An Act to
Establish Greater Alignment of Penalties for Certain Labor Law Violations
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Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor, my name is Dana Doran, and I am the Executive Director of the Professional Logging Contractors of the Northeast (PLC). The PLC is a non-profit educational organization that educates the public on the interests of 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 over 220 contractor members in the state of Maine and an additional 125 associate members, is responsible for more than 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 1587, An Act to Establish Greater Alignment of Penalties for Certain Labor Law Violations. Last session, the Legislature provided the Bureau of Labor Standards (Bureau) with increased enforcement responsibilities by expanding the scope of wage and hour violations, doubling the penalties for liquidated damages, and provided the authority for the director of the Bureau to assess fines up to \$1,000 against an employer who violates any provision of Title 26 Chapter 7 and Chapter 15. This was a very drastic change in policy, and it has been less than a year since it was passed into law, not mention the limited duration that it has actually been in effect.

The bill seeks to build upon the previously mentioned penalties for businesses by creating a criminal penalty for those found guilty of violations on two occasions. As a result, businesses could become subject to a fine of not more than \$10,000 or to imprisonment of not more than 6 months.

From our perspective, this type of recommendation seems premature and overly aggressive. In fact, when did violations of labor law rise to the level of a crime?

Has the Bureau seen a drastic increase of violations to warrant this type of change? If so, could they provide evidence? Regardless, if the Bureau truly believes that this is necessary, have they worked with stakeholders to address the issues and determine if other pathways should be pursued or exhausted first? In the business community, we call this progressive discipline, and it must be documented to ensure a paper trail has been created for proof. Has the Bureau created such a paper trail?

From our perspective, shouldn't the Bureau have an opportunity to determine if the law passed last session, has had an effect on decreasing violations or complaints before adding more. We believe these penalties are unnecessary, excessive, and will place excessive pressure small family businesses in rural areas. It would turn administrative or civil violations, such as recordkeeping errors, misunderstandings around wage classifications, or mistakes in payroll processing into potential criminal offenses. From our perspective, this is a solution in search of a problem.

Lastly, the penalties are subject to the definition of violation and criminal penalties described in Section 1 of the bill. Under this section, "a person who intentionally or knowingly violates any provision of chapter 7 or 15 commits a Class E crime." The terms "intentionally and knowingly", although they might seem clear, can have a very broad interpretation and put businesses at risk of being considered criminal. Will these be determined by the Bureau through an exhaustive investigative process, affording proper due process as well as an appeals process, or will they be remanded to the Office of the Attorney General. At this point, this legislation lacks clarity of process and is troubling since it does not provide due process of law.

I encourage the committee to please vote ought not to pass on LD 1587. Thank you for your time and I would be happy to answer any questions you may have.