



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 788

H.P. 595

House of Representatives, March 1, 2011

### **An Act To Prohibit Forced Payment of Labor Union Dues or Fees by Workers**

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative WINSOR of Norway.  
Cosponsored by Representative CEBRA of Naples, Senator SNOWE-MELLO of  
Androscoggin and Representatives: BLACK of Wilton, CURTIS of Madison, CUSHING of  
Hampden, HAMPER of Oxford, KESCHL of Belgrade, O'CONNOR of Berwick.

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

2 **Sec. 1. 26 MRSA §629, sub-§4**, as repealed and replaced by PL 2007, c. 524, §1,  
3 is repealed.

4 **Sec. 2. 26 MRSA §629, sub-§4-A** is enacted to read:

5 **4-A. Deduction of union dues or service fees prohibited without signed written**  
6 **consent.** An employer or agent of an employer may not deduct any type of dues or fees  
7 for any union, employee organization or collective bargaining agent from an employee's  
8 pay without signed written consent from the employee. An employee who has provided  
9 signed written consent for dues or fees deduction from the employee's pay to a union,  
10 employee organization or collective bargaining agent may provide written notice to stop  
11 payments at any time and the employer or agent of the employer shall stop the deductions  
12 within 15 days of receiving notice.

13 **Sec. 3. 26 MRSA c. 7, sub-c. 2-B** is enacted to read:

14 **SUBCHAPTER 2-B**

15 **RIGHT TO WORK**

16 **§651. Short title**

17 This subchapter may be known and cited as "the Maine Right To Work Act."

18 **§652. Labor organization**

19 "Labor organization" means an organization or agency or employee representation  
20 committee or union that exists for the purpose of negotiating with employers, public or  
21 private, concerning wages, rates of pay, hours of work, other conditions of employment  
22 or other forms of compensation.

23 **§653. Right to refrain**

24 A person may not be required, as a condition of employment or continuation of  
25 employment, to:

26 **1. Become a member.** Become or remain a member of a labor organization;

27 **2. Pay dues.** Pay any dues, fees, assessments or other similar charges, however  
28 denominated, of any kind or amount to a labor organization; or

29 **3. Pro rata portions.** Pay to any charity or other 3rd party, in lieu of payments  
30 under subsection 2, any amount equivalent to or a pro rata portion of dues, fees,  
31 assessments or other charges required of members of a labor organization.

1        **§654. Agreements in violation**

2            An agreement, understanding or practice, written or oral, implied or expressed,  
3 between a labor organization and employer that violates the rights of employees as  
4 guaranteed by provisions of this Act is void and of no effect.

5        **§655. Penalty**

6            A person who directly or indirectly violates any provision of this Act is guilty of a  
7 Class E crime.

8        **§656. Injunctive relief**

9            A person injured as a result of any violation or threatened violation of the provisions  
10 of this Act is entitled to injunctive relief against any violators or persons threatening  
11 violations.

12        **§657. Damages**

13            A person injured as a result of any violation or threatened violation of the provisions  
14 of this Act may recover all damages, including costs and reasonable attorney's fees, of  
15 any violation or threatened violation. Remedies are independent of the penalties and  
16 remedies proscribed in other provisions of this Act.

17        **§658. Duty to investigate**

18            The Attorney General or a district attorney of a district in which a violation is alleged  
19 to have occurred shall investigate complaints of violation or threatened violations of this  
20 Act and shall prosecute all persons violating any of its provisions to ensure its effective  
21 enforcement.

22        **§659. Exceptions**

23            The provisions of this Act do not apply:

24            **1. Covered by Railway Labor Act.** To employers and employees covered by the  
25 federal Railway Labor Act, 45 United States Code, Sections 151 to 188;

26            **2. Federal employers and employees.** To federal employers and employees;

27            **3. Federal enclaves.** To employers and employees on exclusive federal enclaves;

28            **4. Conflict with federal law.** When those provisions would otherwise be in conflict  
29 with, or be preempted by, federal law; and

30            **5. Not retroactive.** To any employment contract entered into before the effective  
31 date of this section. However, the provisions of this Act apply to any renewal or  
32 extension of any existing contract.

33            **Sec. 4. 26 MRSA §963, sub-§2,** as enacted by PL 2007, c. 415, §2, is amended to  
34 read:

1           **2. Not join a union.** Refrain from joining or participating in the activities of  
2 organizations for the purposes of representation and collective bargaining, ~~except that an~~  
3 ~~employee may be required to pay to the organization that is the bargaining agent for the~~  
4 ~~employee a service fee that represents the employee's pro rata share of those expenditures~~  
5 ~~that are germane to the organization's representational activities~~ and all incidents of union  
6 membership, including the payment of any union dues or agency fees.

7           **Sec. 5. 26 MRSA §964, sub-§1, ¶G,** as enacted by PL 2007, c. 415, §4, is  
8 amended to read:

9           G. Requiring an employee to join, support or pay any type of union dues or fees to  
10 any type of a union, employee association or bargaining agent ~~as a member~~; and

11           **Sec. 6. 26 MRSA §979-B, sub-§2,** as enacted by PL 2007, c. 415, §6, is amended  
12 to read:

13           **2. Not join a union.** Refrain from joining or participating in the activities of  
14 organizations for the purposes of representation and collective bargaining, ~~except that an~~  
15 ~~employee may be required to pay to the organization that is the bargaining agent for the~~  
16 ~~employee a service fee that represents the employee's pro rata share of those expenditures~~  
17 ~~that are germane to the organization's representational activities~~ and all incidents of union  
18 membership, including the payment of any union dues or agency fees.

19           **Sec. 7. 26 MRSA §979-C, sub-§1, ¶G,** as enacted by PL 2007, c. 415, §8, is  
20 amended to read:

21           G. Requiring an employee to join, support or pay any type of union dues or fees to  
22 any type of a union, employee association or bargaining agent ~~as a member~~; and

23           **Sec. 8. 26 MRSA §1023, sub-§2,** as enacted by PL 2007, c. 415, §10, is amended  
24 to read:

25           **2. Not join a union.** Refrain from joining or participating in the activities of  
26 organizations for the purposes of representation and collective bargaining, ~~except that an~~  
27 ~~employee may be required to pay to the organization that is the bargaining agent for the~~  
28 ~~employee a service fee that represents the employee's pro rata share of those expenditures~~  
29 ~~that are germane to the organization's representational activities~~ and all incidents of union  
30 membership, including the payment of any union dues or agency fees.

31           **Sec. 9. 26 MRSA §1027, sub-§1, ¶G,** as enacted by PL 2007, c. 415, §13, is  
32 amended to read:

33           G. Requiring an employee to join, support or pay any type of union dues or fees to  
34 any type of a union, employee association or bargaining agent ~~as a member~~; and

35           **Sec. 10. 26 MRSA §1283, sub-§2,** as enacted by PL 2007, c. 415, §15, is  
36 amended to read:

37           **2. Not join a union.** Refrain from joining or participating in the activities of  
38 organizations for the purposes of representation and collective bargaining, ~~except that an~~

1 employee may be required to pay to the organization that is the bargaining agent for the  
2 employee a service fee that represents the employee's pro rata share of those expenditures  
3 that are germane to the organization's representational activities and all incidents of union  
4 membership, including the payment of any union dues or agency fees.

5 **Sec. 11. 26 MRSA §1284, sub-§1, ¶G**, as enacted by PL 2007, c. 415, §18, is  
6 amended to read:

7 G. Requiring an employee to join, support or pay any type of union dues or fees to  
8 any type of a union, employee association or bargaining agent as a full member; and

9 **Sec. 12. 26 MRSA §1323**, as enacted by PL 1997, c. 472, §1, is amended to read:

10 **§1323. Rights of agricultural employees; organization, collective bargaining**

11 Agricultural employees have the right to self-organize; to form, join or assist labor  
12 organizations; to bargain collectively through representatives of their own choosing; and  
13 to engage in other concerted activities for the purpose of collective bargaining or other  
14 mutual aid or protection. Agricultural employees also have the right to refrain from such  
15 activities ~~except to the extent that this right may be affected by an agreement requiring~~  
16 ~~membership in a labor organization as a condition of employment as authorized in section~~  
17 ~~1324, subsection 1, paragraph B, including not joining a union, labor organization or~~  
18 ~~bargaining agent and not paying any union dues or fees.~~

19 **Sec. 13. 26 MRSA §1324, sub-§1, ¶B**, as enacted by PL 1997, c. 472, §1, is  
20 amended to read:

21 B. Encouraging or discouraging membership in any employee organization by  
22 discrimination in regard to hire or tenure of employment or any term or condition of  
23 employment. ~~This chapter, or any other provision of law, may not preclude an~~  
24 ~~agricultural employer from making an agreement with a labor organization not~~  
25 ~~established, maintained or assisted by any action defined in this section as a~~  
26 ~~prohibited practice to require as a condition of employment membership in that labor~~  
27 ~~organization on or after the 5th day following the beginning of employment or the~~  
28 ~~effective date of the agreement, whichever is later, if the labor organization is the~~  
29 ~~representative of the agricultural employees as provided in section 1327 in the~~  
30 ~~appropriate collective bargaining unit covered by the agreement;~~

31 **Sec. 14. 26 MRSA §1324, sub-§1, ¶F**, as enacted by PL 1997, c. 472, §1, is  
32 amended to read:

33 F. Locking out their employees; ~~and~~

34 **Sec. 15. 26 MRSA §1324, sub-§1, ¶G**, as enacted by PL 1997, c. 472, §1, is  
35 amended to read:

36 G. Blacklisting any employee organization or its members for the purpose of  
37 denying employment;

38 **Sec. 16. 26 MRSA §1324, sub-§1, ¶H** is enacted to read:

