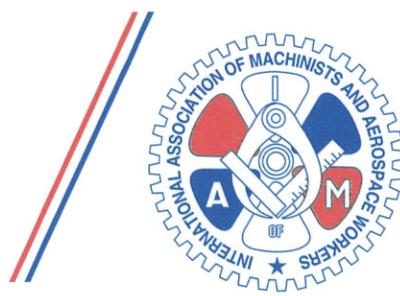


**International  
Association of  
Machinists and  
Aerospace Workers**



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OFFICE OF THE INTERNATIONAL PRESIDENT

January 12, 2022

Secretary Marty Walsh  
U.S. Department of Labor  
200 Constitution Ave., NW  
Washington, D.C. 20210

Dear Secretary Walsh,

On behalf of the International Association of Machinists and Aerospace Workers, I am writing to respectfully seek your immediate assistance with a matter of extreme importance to thousands of workers that we proudly represent in the state of Maine. For many years, my union leadership team and I have joined with the hard working and high skilled loggers of Maine to help them bargain collectively and to get real enforcement on the use of Canadian loggers under the H2A immigration system. Over the years, there has been a great injustice in the way these workers have been used to systematically depress wages. The situation is so dire that it has forced U.S. workers to give up altogether and leave this very important industry in the northeast region.

Since our campaign has started, I have been shocked at the total control that the large landowners have had over the industry. Unfortunately, I have been just as shocked by the complete lack of enforcement by the very federal agencies that are supposed to protect Maine loggers that are being adversely affected. There is a complete power imbalance that has been supported by our federal government.

When we started this campaign 3 years ago, we were faced with a large group of workers that had been turned into independent contractors while still being completely directed at every step of the day by landowners. This worker-misclassification was so extreme that they were forced to install GPS tracking devices in their personal equipment that then had to be turned over at the end of the week to establish their harvesting and trucking rates. We immediately moved to establish the New England Loggers Cooperative. Because of the workers' fears we decided that instead of fighting the forced independent contractor status that we would change Maine law under federal antitrust guidelines to allow Maine Independent contractors to collectively bargain together. This is a first in the nation law that can only be allowed because the Maine Legislature established that there was such a power imbalance that there was no other way then to allow independents the ability to collectively bargain.

Since that time, we have moved on to another concern; one that I thought would be very easy to accomplish but has proven to be a much more difficult task: the illegal use of H2A drivers in the logging industry. As you know, H2A workers are only supposed to be utilized if they do not affect the wages or working conditions of US workers. Our national union representatives along with Maine Senate President Troy Jackson have met with hundreds of workers and have been out in the harvesting areas of northern Maine to witness firsthand the abuse of these workers. All of this is the result of violations of federal cabotage laws, or point-to-point hauling in the United States.

This practice has been established to protect the workers in Mexico, Canada, and the United States. It has never been allowed to happen in Mexico or Canada by U.S. drivers and in none of the 49 other states. In all of those places where the instances that have occurred, drivers have been deported and trucks have been impounded. However, in Maine, it has been celebrated by large industrial landowners and we have been met

with total silence from our federal government, in particular the United States Department of Labor (“DOL”). When other federal agencies have listened, we have been caught in a game where each agency does not, or claims not to have jurisdiction, while the problem continues and the loggers continue to suffer.

The frustration over the federal inaction prompted Senate President Jackson to introduce his own version of federal cabotage law in Maine. We strongly supported the legislation and aggressively fought for its passage this year. During the committee process, the large landowners argued – to a person – that this practice was not happening in Maine. These same landowners went on to say that *if it did happen* they would fire the Canadian contractors that used H2A workers to do point-to-point hauling in Maine. Now, before the law even had time to go into effect they have challenged it in federal court saying that it is unconstitutional. They even went so far as to get a Canadian contractor and an H2A worker from Canada to sign on because their constitutional rights were being infringed on by the enforcement of a law that the federal government should have already been doing. The major argument in the case is that the law is unconstitutional because the federal government has been allowing the violation of federal cabotage laws solely by H2A workers - so it must be legal.

As a result, unfortunately the law is on hold in Maine with the court case pending. Since that time at least one of the landowners is voluntarily following it for fear of retroactively going in to law if their case fails. To me, this is the most hypocritical display on their part. They have argued that for years that the industry would shut down without these H2A workers, but in this case, what has actually happened is that Maine loggers have filled those positions and are working in places in Maine that they have been shut out of in the past.

On October 30, 2021 the Maine Attorney General Aaron Frey traveled to northern Maine to meet with eight truckers that would speak with him. They were still concerned that openly speaking would bring reprisal from landowners, but they agreed to meet if there was no media or announcement of the meeting. All eight of these men reported to Maine’s top law enforcement official that they were finally able to get work in areas that they had been shut out of in the past. Their ability to get loads were increased and there was a freedom to negotiate prices that they had not had in the past with the depressed prices that the H2A drivers had fostered. We believe this alone would be enough for your agency to stop the use of H2A workers in the logging industry until a review of these illegal practices can happen. Maine is the only state in the nation that has H2A workers in the logging industry. If all the other states that have an active logging industry can operate without H2A workers, then we have no doubt that Maine can too.

We respectfully ask DOL to enforce the federal law as it is currently written. Unfortunately, to the detriment of thousands of Maine loggers, some agencies have shied away and said this matter is NOT in their jurisdiction. In your case, we believe it is squarely so. We have reached out directly to the Chairman of the House Homeland Security Committee Bennie Thompson (D-MS) to urge Homeland Security to enforce the federal cabotage law and have provided a copy of that correspondence (see attached). In the meantime, DOL is apprised of this situation. We have documented evidence of these H2A workers violating the law under DOL’s allowance of their admission, and DOL has documented evidence from Maine’s Attorney General that there has been an ongoing adverse effect and if the failure of Maine’s law to enforce federal cabotage law fails then this unjust situation will continue for Maine’s truckers. Adverse effect is the basis of allowing these workers into Maine’s logging industry. It is happening and the evidence is clear. Again, we ask the DOL to simply enforce the law and protect the U.S. workers in Maine’s logging industry.

Thank you,



Robert Martinez, Jr.  
International President