

MAINE STATE LEGISLATURE

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5/16/19
R. O. J.

L.D. 886

Date: 6/3/19 Majority

(Filing No. H-447)

LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 660, L.D. 886, Bill, "An Act To Protect Volunteer Search and Rescuers Certified by the Maine Association for Search and Rescue from Adverse Employment Actions"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Search and Rescue Volunteers Certified by the Maine Association for Search and Rescue from Adverse Employment Actions'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA c. 7, sub-c. 4-D is enacted to read:

SUBCHAPTER 4-D

SEARCH AND RESCUE VOLUNTEERS; ABSENCE FROM WORK

§810. Absence for emergency response

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employer" means any private or public employer, including the State and political subdivisions of the State.

B. "Recognized organization" means a nonprofit search and rescue organization recognized by the Department of Inland Fisheries and Wildlife, Bureau of Warden Service.

C. "Search and rescue" means a search, rescue or search and rescue.

D. "Search and rescue volunteer" means a person who is certified in search and rescue practices and procedures by a recognized organization.

COMMITTEE AMENDMENT

ROPS

1 **2. Prohibition against discharge or disciplinary action.** An employer may not
 2 discharge or take any other disciplinary action against or otherwise discriminate against
 3 an employee because of the employee's failure to report for work at the beginning of the
 4 employee's regular working hours or the employee's absence during the employee's
 5 regular working hours if the employee's failure to report or absence was because the
 6 employee was responding to a search and rescue operation requested by a law
 7 enforcement agency in the employee's capacity as a search and rescue volunteer and the
 8 employee reported for work as soon as reasonably possible after being released from the
 9 search and rescue operation. An employer may charge the lost time against the
 10 employee's regular pay or against the employee's available leave time. This subsection
 11 does not apply to the absence of an employee if the employee has been designated as
 12 essential by the employer pursuant to subsection 6.

13 **3. Notification; verification.** An employee responding as a search and rescue
 14 volunteer to a search and rescue operation, the employee's designee or the search and
 15 rescue operation supervisor shall make every effort to immediately notify the employer
 16 that the employee may be late arriving to work or absent from work as a result of
 17 responding to a search and rescue operation requested by a law enforcement agency prior
 18 to or during the employee's regular working hours. At the request of an employer, an
 19 employee losing work time as provided in subsection 2 shall provide the employer with a
 20 statement from the official in charge of the recognized organization, the official's
 21 designee or a law enforcement official responsible for the search and rescue operation
 22 verifying that the employee was responding to a search and rescue operation and
 23 specifying the date and time of release from the operation.

24 **4. Enforcement; penalty for violation.** If an employer has violated subsection 2,
 25 the employee may bring an action in Superior Court in the county in which the employee
 26 resides or in the county in which the employer's place of business is located. The action
 27 must be brought within one year of the date of the alleged violation. If the court finds that
 28 the employer violated subsection 2 and if the employee so requests, the court shall order
 29 the employer to reinstate the employee in the employee's former position without
 30 reduction of pay, seniority or other benefits. The court also shall order any other
 31 appropriate remedy necessary to return the employee to the position the employee would
 32 have been in had the employer not violated subsection 2, including payment of back pay
 33 and reinstatement of any other benefits lost during the period in which the discharge or
 34 disciplinary action was in effect.

35 **5. Individual agreements.** This section does not apply if the employer and the
 36 employee have entered into a written agreement, signed by the employer and the
 37 employee, that governs procedures to be followed when the employee is called to respond
 38 to a search and rescue operation as a search and rescue volunteer.

39 **6. Designation as essential.** Upon receiving notice of an employee's search and
 40 rescue volunteer status, an employer may designate the employee essential to the
 41 employer's operations if the absence of the employee would cause significant disruption
 42 of the employer's business. This designation must be made in writing and signed by both
 43 the employee and the employer.

44 **7. Information to be filed by the employee with the employer.** This section
 45 applies only if:

COMMITTEE AMENDMENT

1 A. The recognized organization in charge of calling out search and rescue volunteers
2 has a written policy that:

3 (1) Specifies the circumstances under which search and rescue volunteers will be
4 ordered to remain at a search and rescue operation; and

5 (2) Affirms that search and rescue volunteers will be released as soon as
6 practicable; and

7 B. The employee presents a copy of the policy described in paragraph A to the
8 employer upon notifying the employer of the employee's status as a search and rescue
9 volunteer, within 30 days of employment or within 180 days of the effective date of
10 this subsection.

11 An employee shall notify the employer of any change to the employee's status as a search
12 and rescue volunteer, including termination of that status within 30 days of the change.'

13 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
14 section number to read consecutively.

15 **SUMMARY**

16 This amendment makes the bill consistent with the Maine Revised Statutes, Title 26,
17 section 809, concerning absence for emergency response. It adds a definition for
18 "recognized organization" and changes terminology from "volunteer search and rescue"
19 to "search and rescue volunteer."

20 **FISCAL NOTE REQUIRED**

21 (See attached)



129th MAINE LEGISLATURE

LD 886

LR 305(02)

An Act To Protect Volunteer Search and Rescuers Certified by the Maine Association for Search and Rescue from Adverse Employment Actions

Fiscal Note for Bill as Amended by Committee Amendment

A. (H-447)

Committee: Labor and Housing

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.