

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 516

H. P. 410

House of Representatives, January 30, 1975

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Cooney of Sabattus.

Cosponsors: Mr. Bustin of Augusta and Mrs. Byers of Newcastle.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Establishing the Code of Fair Practices and Affirmative Action as
the Equal Opportunity Standard for State Financial Agencies.

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

5 MRSA, c. 337, sub-c. IX is enacted to read:

SUBCHAPTER IX

CODE OF FAIR PRACTICES AND AFFIRMATIVE ACTION

§ 4681. Code of Fair Practices and Affirmative Action

The State of Maine is an Equal Opportunity Employer and as such will require all its agencies to pursue in good faith affirmative action programs.

§ 4682. Definition of affirmative action

An Affirmative Action Program includes procedures designed to increase the numbers of minorities and women at all levels and in all segments of the work force where imbalances exist. Such a program should include an assessment of the existing situation, and the development of realistic goals for necessary action. These goals and related procedures and timetables should not require rigid quotas, but are commitments which an employer should make every good faith effort to achieve.

§ 4683. Appointment, assignment and promotion of personnel

Officials and supervisory employees shall appoint, assign and promote personnel on the basis of merit and fitness, without regard to race, color, reli-

gious creed, national origin, sex, ancestry, age or physical handicap, unless related to a bona fide occupational qualification. Each appointing authority shall designate an Equal Opportunity Officer. The officer must be so placed within the agency's organizational structure that he or she shall have direct access to the appointing authority. Each department or agency shall prepare an Affirmative Action Program for that department or agency in accordance with criteria set forth by the State Department of Personnel.

§ 4684. State action and contracts

1. State action. No agency or individual employee of the State or state related agencies will discriminate because of race, color, religious creed, sex, national origin, ancestry, age or physical handicap while providing any function or service to the public, in enforcing any regulation, or in any education, counseling, vocational guidance, apprenticeship and on-the-job training programs. Similarly, no state or state related agency contractor, subcontractor, or labor union or representative of the workers with which the contractor has an agreement, will discriminate unless based on a bona-fide occupational qualification. State agencies or related agencies may withhold financial assistance to any recipient found to be in violation of the Maine Human Rights Act or the Federal Civil Rights Act. Any state agency or related agency shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry, age or physical handicap, unless it is related to a bona fide job requirement.

2. Public contracts. Every state or state related agency contract for public works or for services shall incorporate by reference the following provisions: During the performance of this contract, the contractor agrees as follows:

A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religious creed, sex, national origin, ancestry or age. Such action shall include, but not be limited to, the following: Employment, upgrading, demotions, transfers, recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry or age.

C. The contractor will send to each labor union or representative of the workers with which he has a collective or bargaining agreement, or other contract or understanding, whereby he is furnished with labor for the performances of his contract, a notice, to be provided by the contracting department or agency, advising the said labor union or workers' representative of the contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and to applicants for employment.

D. The contractor will cause the foregoing provisions to be inserted in all contracts for any work covered by this agreement so that such provisions will be binding upon each subcontractor.

§ 4685. State employment services

Any state agency or state related agency engaged in employment, referral or placement service for private industry or public agencies shall fill all job orders on a nondiscriminatory basis, and shall decline any job order carrying a specification or limitation as to race, color, religious creed, sex, national origin, ancestry or age, unless it relates to a bona fide job requirement.

§ 4686. Training for job opportunities

All educational and vocational-guidance counseling programs and all apprenticeship and on-the-job training programs conducted, supervised or funded by the state or state related agency shall be conducted to encourage the fullest development of interest and aptitudes without regard to race, color, religious creed, sex, national origin, ancestry or age, unless sex or age relates to a bona fide job requirement. In the event that any such programs are conducted in conjunction with private employers or private educational institutions, the supervising or contracting department or agency shall insure that the provisions of this subchapter are complied with fully by such private employer or private educational institution.

§ 4687. State financial assistance

No state agency or state related agency shall approve a grant of state financial assistance to any recipient who is engaged in discriminatory practices. All recipients of state financial assistance shall submit to the Maine Human Rights Commission, at its request, information relating to the recipient's operations with regard to race, color, religious creed, sex, national origin, ancestry or age. Such information shall be furnished on a form to be prescribed by the Maine Human Rights Commission.

§ 4688. The State Department of Personnel

The State Department of Personnel shall take positive steps to insure that the entire civil service examination and testing process, including the development of job specifications and employment qualifications, is free from either conscious or inadvertent bias. Furthermore, the Department of Personnel will have the initial responsibility of resolving civil service conflicts and complaints, changing administrative procedures when necessary and providing assistance for preparing affirmative action programs. It is the responsibility of the Equal Opportunity Personnel Specialist in the Department of Personnel to monitor the civil service Affirmative Action Program and insure compliance with all federal and state regulations.

§ 4689. Human Rights Commission

All affirmative action programs, whether part of the civil service or not, shall be subject to the review and comment of the Human Rights Commission.

All powers and duties granted to the Maine Human Rights Commission under sections 4551, et seq., as amended, apply to this section. Complaints of discrimination based on race, color, religious creed, sex, national origin, age or physical handicap should be made to the Maine Human Rights Commission.

§ 4690. Affected state agencies and state related agencies

All state financed agencies, political subdivisions, quasi-independent agencies, school districts and instrumentalities of State Government are required to implement this Code of Fair Practices and Affirmative Action.

STATEMENT OF FACT

The purpose of this bill is to make the Code of Fair Practices and Affirmative Action, which currently applies to only Executive Department agencies, apply to all state financed agencies and state related agencies.