

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 790**

S. P. 260

In Senate, February 27, 1979

Referred to the Committee on Aging, Retirement and Veterans. Sent down for concurrence and 2,500 ordered printed.

Presented by Senator Chapman of Sagadahoc.

Cosponsors: Senators Katz of Kennebec and Conley of Cumberland.

MAY M. ROSS, Secretary of the Senate

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Prohibit the Practice of a Mandatory Retirement Age.**

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

**Sec. 1. 5 MRSA § 4553, sub-§ 6-A, is enacted to read:**

**6-A. Normal retirement age. "Normal retirement age" means the specified age, the years of service requirement or any age and years of service combination at which a member may become eligible for retirement benefits. This subsection shall not be construed to require the mandatory retirement of a member or to deny employment to any person based solely on his normal retirement age.**

**Sec. 2. 5 MRSA § 4573, sub-§ 1, as repealed and replaced by PL 1977, c. 580, § 14, is repealed.**

**Sec. 3. 5 MRSA § 4573, sub-§ 1-A, is enacted to read:**

**1-A. Child labor laws. To comply with the state or federal laws relating to the employment of minors;**

**Sec. 4. 5 MRSA § 4574, as enacted by PL 1977, c. 580, § 15, is repealed and the following enacted in its place:**

**§ 4574. Mandatory retirement age discouraged**

**1. Definition.** As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

**A. "Employer"** shall mean any individual or type of organization, including domestic and foreign corporations and partnerships, doing business in the State.

**2. Legislative findings and intent.** The Legislature finds that many older Maine citizens are forced out of the work force solely because of their age. The Legislature further finds that many older Maine residents who have been forced out of the work force are fully capable of carrying out the duties and responsibilities required by their employment. Finally, the Legislature finds that many older Maine citizens, because of their years of experience, can make valuable contributions to the work force.

It is the intent of the Legislature that discrimination based on age against any person who seeks employment in the private sector or who is already employed by a private employer shall not be tolerated. It is further the intent of the Legislature to ensure that any older person who seeks employment or wishes to continue employment in the private sector and who is capable of fulfilling the duties and responsibilities of this employment shall be treated like any other person who seeks employment or wishes to continue this employment. Finally, it is the clear and unequivocal intent of the Legislature to prohibit employers in the private sector from requiring employees to retire at a specified age, or after completion of a specified number of years of service.

**3. Prohibition.** No employee in the private sector shall be required, as a condition of employment, to retire at or before a specified age or after completion of a specified number of years of service.

**4. Criteria and standards.** A private employer may establish reasonable criteria and standards of job performance to be used for the purpose of determining when employment of his employees should be terminated. Where there is a certified bargaining agent, the establishment of these criteria and standards may be a subject of collective bargaining. These criteria and standards shall be consistent for all employees in the same or similar job classifications, shall be applied fairly to all employees regardless of age and shall be consistent with the provisions of the Maine Human Rights Act relating to the employment of physically and mentally handicapped persons.

**5. Normal retirement age.** This section shall not be construed to prohibit the use of a "normal retirement age," as defined in section 4553, subsection 6-A, provided that normal retirement age and the accrual or awarding of pension or retirement benefits shall not be used in any way to require the retirement of an employee or to deny employment to a person.

**6. Federal requirements.** This section shall not be construed to affect or limit any power or duty relating to pension or retirement plans which the United States Government reserves to itself.

**7. Applicability. This section shall apply to any employers in the State.**

**Sec. 5. Effective date; compliance.** Sections 1 to 4 shall take effect January 1, 1980.

Any employer who, as a result of this Act, is required to amend an existing employee retirement pension or insurance plan, shall complete any such amendment prior to January 1, 1980. However, if the amendment needs to be made through the negotiation of a collective bargaining contract and if the contract is not scheduled for negotiation prior to January 1, 1980, the amendment shall be made during the next scheduled negotiation after January 1, 1980.

#### STATEMENT OF FACT

This bill extends to the private sector the provisions of PL 1977, chapter 580, "AN ACT to Prohibit the Practice of a Mandatory Retirement Age," as recommended by the State Planning Office study mandated by that Act.

As a result of amendments to the federal Age Discrimination in Employment Act passed by Congress in April 1978, prohibiting the mandatory retirement of persons under the age of 70, this bill will affect only those persons exempted from the federal law: Persons 70 or older; corporate executives and policy makers entitled to pensions of \$27,000 a year or more; organizations employing fewer than 20 employees and tenured faculty in colleges and universities.

Included in this bill are provisions that:

1. No employee may be required to retire at a given age or after a specified number of years of service;
2. An employer may fix a normal retirement age or length of service after which an employee is entitled to full pension benefits;
3. Private employers may establish reasonable criteria and standards of job performance to be used for the purpose of determining when employment of its employees should be terminated. These criteria and standards may be the subject of collective bargaining; and
4. Any employers in the State shall be in compliance.

This bill is not intended to be in conflict with the federal Employee Retirement Income Security Act and Age Discrimination in Employment Act and accompanying regulations.

The intended date of implementation of this bill is January 1, 1980.