

MAINE STATE LEGISLATURE

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(New Draft of S.P. 56, L.D. 123)
(New Title)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 945

S.P. 319

In Senate, March 25, 1987

Reported by Senator Brannigan of Cumberland for the
Committee on Judiciary and printed under Joint Rule 2.
Original Bill sponsored by Senator Clark of Cumberland.
Cosponsored by: Senator Sewall of Lincoln, Representative
Joseph of Waterville, Representative Hickey of Augusta.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 **AN ACT to Require Age Limitations Used in**
2 **Apprenticeship Programs to be**
3 **Reasonably Related to Legitimate Job**
4 **Criteria.**
5

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

8 **Sec. 1. 5 MRSA §4572, sub-§1, ¶C, as amended by**
9 **PL 1977, c. 565, is further amended to read:**

10 **C. For any labor organization to exclude from**
11 **apprenticeship or membership, or to deny full and**
12 **equal membership rights, to any applicant for**
13 **membership, because of race or color, sex, physi-**
14 **cal or mental handicap, religion, age, ancestry**

1 or national origin, or because of any such reason
2 to deny a member full and equal membership
3 rights, expel from membership, penalize or other-
4 wise discriminate in any manner with respect to
5 hire, tenure, promotion, transfer, compensation,
6 terms, conditions or privileges of employment,
7 representation, grievances or any other matter
8 directly or indirectly related to membership or
9 employment, whether or not authorized or required
10 by the constitution or bylaws of such labor orga-
11 nization or by a collective labor agreement or
12 other contract, or to fail or refuse to classify
13 properly or refer for employment, or otherwise to
14 discriminate against any member because of race
15 or color, sex, physical or mental handicap, reli-
16 gion, age, ancestry or national origin or to
17 cause or attempt to cause an employer to discrim-
18 inate against an individual in violation of this
19 section, except that it shall be lawful for labor
20 organizations and employers to adopt a maximum
21 age limitation in apprenticeship programs, pro-
22 vided that the employer or labor organization ob-
23 tains prior approval from the Maine Human Rights
24 Commission of any maximum age limitation employed
25 in an apprenticeship program. The commission
26 shall approve the age limitation if a reasonable
27 relationship exists between the maximum age limi-
28 tation employed and a legitimate expectation of
29 the employer in receiving a reasonable return
30 upon his investment in an apprenticeship program.
31 The employer or labor organization bears the bur-
32 den of demonstrating that such a relationship
33 exists;

34 **Sec. 2. Transition clause.** This Act does not
35 apply to any apprenticeship program that is governed
36 by a collective bargaining agreement on the effective
37 date of this Act until the expiration of the collec-
38 tive bargaining agreement in effect on that date.

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STATEMENT OF FACT

2 This new draft, instead of simply repealing the
3 exception to the Maine Human Rights Act that permits
4 apprenticeship programs to employ a maximum age limitation,
5 requires the employer or labor organization
6 that provides the apprenticeship program to demonstrate
7 that any age limitation bears a rational relationship
8 to legitimate goals of the employer. The
9 purpose of this new draft is to permit maximum age
10 limitations to be used in those programs where it
11 serves a useful purpose, but to prevent the use of
12 age limits to arbitrarily exclude persons over a certain
13 age. Under this approach, if a particular apprenticeship
14 program requires an extraordinary period
15 of time to complete, and carries a similarly long
16 pay-back period, the employer may legally restrict
17 entry into the program to persons under a certain age
18 to ensure a productive program. If an employer cannot
19 demonstrate that the age limitation is justified
20 for some legitimate business purpose, but the age
21 limit serves a purely arbitrary function, the limit
22 will not be allowed. This new draft recognizes that
23 certain occupations may require the application of
24 age limitations in apprenticeship programs, and allows
25 their use in those situations. The new draft
26 also recognizes that a person's age should not be an
27 automatic barrier to employment, and provides that no
28 age limitation may be employed if it does not serve a
29 legitimate purpose.

30 Under this new draft, existing apprenticeship
31 programs governed by a collective bargaining agreement
32 may continue to apply any age limitations currently
33 in use until the collective bargaining agreements
34 expire. At this time, any age limitations to
35 be employed in the apprenticeship program must be
36 approved by the Maine Human Rights Commission.

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