

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1518

S.P. 501

In Senate, May 11, 1987

Submitted by the Department of Defense and Veterans' Services pursuant to Joint Rule 24.

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

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator DILLENBACK of Cumberland.

Cosponsored by Representative JALBERT of Lisbon, Representative BEGLEY of Waldoboro, Representative ERWIN of Rumford.

STATE OF MAINE

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

1 AN ACT to Clarify the Law Regarding
2 Prohibition of Employment Penalties
3 or Interference Against State Military
4 Force Members.
5

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

8 Sec. 1. 37-B MRSA §342, sub-§5, as amended by PL
9 1983, c. 594, §17, is repealed and the following en-
10 acted in its place:

11 5. Employment; leave of absence. It is unlawful
12 for any public or private employer to penalize any
13 member of the state military forces, including the
14 Maine Army and Air National Guard, with regard to
15 compensation, hiring, tenure, terms, conditions, or
16 privileges of employment or to deny any other inci-

1 dent or advantage of employment due to the employee's
2 membership or participation in the state military
3 forces.

4 A. Any person, including an employer described
5 in this subsection, who willfully deprives a mem-
6 ber of the state military forces, including the
7 Maine Army and Air National Guard, of his employ-
8 ment, prevents his employment, interferes with
9 his employment rights as described in this sub-
10 section, or otherwise obstructs him or his em-
11 ployer with respect to his occupation or business
12 because of his membership in the state military
13 forces, or who dissuades any person from
14 enlisting in the state military forces by threat
15 of injury to his occupation or business, is
16 guilty of a Class E crime.

17 Sec. 2. 37-B MRSA §403, sub-§1, as enacted by PL
18 1983, c. 460, §3, is repealed and the following en-
19 acted in its place:

20 1. Active member. All members of the state mil-
21 itary forces who are not in federal active service
22 under the United States Code, Title 10, are subject
23 to the Maine Code of Military Justice.

24 A. This code applies to members of the state
25 military forces serving out-of-state and while
26 going to and returning from service out-of-state
27 to the same extent as a person serving within the
28 State.

29 B. Offenses committed outside the State may be
30 tried and punished either inside or outside the
31 State subject to section 418.

STATEMENT OF FACT

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2 The Maine Revised Statutes, Title 37-B, section
3 342 is written in a style that appears more applica-
4 ble to a 3rd party or intervenor coming between an
5 employer and his employee who interferes due to the
6 employee's membership or desire to enter service with
7 the state military forces. This bill clarifies the
8 nonintervenor situation where the employer is the
9 discriminator acting for his own motives. The em-
10 ployer discriminating against the member-employee
11 comprises the bulk of violations.

12 The bill also clarifies to whom the Maine Code of
13 Military Justice applies.

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