## MAINE STATE LEGISLATURE

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| 1        | L.D. 648   |
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| 3        | (Filing No. S-147)   |
| 5        |  |
| 7        | STATE OF MAINE<br>SENATE   |
| 9        | 114TH LEGISLATURE<br>FIRST REGULAR SESSION   |
| 11       |  |
| 13       | COMMITTEE AMENDMENT " A" to S.P. 258, L.D. 648, Bill, "An Act to Amend the Maine Human Rights Act Pertaining to  |
| 15       | Discrimination Because of Previous Assertion of a Claim Under the Workers' Compensation Act"   |
| 17<br>19 | Amend the bill by striking out the title and inserting in its place the following:   |
| 21       | 'An Act to Clarify Jurisdiction over Discrimination Cases  |
| 23 '     | Based upon Claims under the Workers' Compensation Act'   |
| 25       | Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following: |
| 27       |  |
| 29       | 'Sec. 1. 5 MRSA §4572, sub-§1, ¶A, as amended by PL 1987, c. 782, §1, is further amended to read:  |
| 31       | A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of                                |
| 33       | race or color, sex, physical or mental handicap, religion, ancestry or national origin or age, or because of the                                       |
| 35       | applicant's previous assertion of a claim or right under<br>Title 39, or because of previous actions taken by the                                      |
| 37       | applicant which are protected under Title 26, chapter 7, subchapter V-B, or because of any such reason to discharge                                    |
| 39,      | an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or                                      |
| 41       | privileges of employment, or any other matter directly or indirectly related to employment, or in recruiting of  |
| 43       | individuals for employment or in hiring them, to utilize any employment agency which such employer knows, or has                                       |
| 45       | reasonable cause to know, discriminates against individuals because of their race or color, sex, physical or mental                                    |
| 47       | handicap, religion, age, ancestry or national origin, or<br>their previous assertion of a claim or right under Title 39,                               |
| 49       | or because of previous actions which are protected under Title 26, chapter 7, subchapter V-B;  |
| 51       | 11016 20, Chapter /, Subchapter V-D;   |

| Ĺ | (1) This paragraph does not apply to discrimination |
|---|---|
|   | againstanyindividualafterhiringbecauseofthat        |
| 3 | individual'spreviousorsubsequentassertionofa        |
|   | elaim-or-right-under-Title-39Such-discrimination-is |
| 5 | governed by Title 39, section 111;                  |
|   |   |

Sec. 2. 39 MRSA §111, as amended by PL 1985, c. 118, is further amended by inserting at the end a new paragraph to read:

This section applies only to an employer against whom the employee, has testified or asserted a claim under this Act. Discrimination by an employer who is not the same employer against whom the employee has testified or asserted a claim under this Act is governed by Title 5, section 4572, subsection 1, paragraph A.

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## STATEMENT OF FACT

This amendment replaces the original bill to more clearly delineate the separate jurisdiction over workers' compensation discrimination claims held by the Maine Human Rights Commission and the Workers' Compensation Commission. The amendment attempts to preserve the exclusive jurisdiction of the Workers' Compensation Commission over discrimination claims that involve the same parties as the underlying workers' compensation claim.

Under the amendment, the Workers' Compensation Commission has jurisdiction to hear all discrimination claims that arise out of prior workers' compensation controversies involving the same employee and employer. This ensures that claims of discrimination that are closely tied to substantive workers' compensation cases are heard by the same tribunal. For example, a claim of discrimination by an employee whose employer refuses to rehire the employee as required under the Maine Revised Statutes, Title 39, section 66-A, will be heard by the Workers' Compensation Commission.

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The Maine Human Rights Commission has jurisdiction under the amendment to hear a discrimination claim that arises out of a workers' compensation controversy involving parties other than the parties to the discrimination claim. For example, if an employee files a workers' compensation claim against Employer A, and later is hired by Employer B who then dismisses the employee due to the claim against Employer A, the discrimination case will be heard by the Maine Human Rights Commission.

Reported by Senator Esty for the Committee on Labor.
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