

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 279, L.D. 399, Bill, "An Act to Effect Cost Savings and Ensure Worker Safety by Implementing Sexual Harassment Education and Training in the Workplace"

Amend the bill in section 1 in paragraph B by striking out all of subparagraph (7) and inserting in its place the following:

(7) An order to pay to the complainant victim of unlawful discrimination or, including if the commission when brings action on behalf of the victim, an order to pay to the victim, the commission is-the-complainant or both, civil penal damages not in excess of \$5,000 \$10,000 in the case of the first order under this Act against the respondent, not in excess of \$7,500 \$25,000 in the case of a 2nd such order against the respondent, arising under the same subchapter of this Act and not in excess of \$10,000 \$50,000 in the case of a 3rd or subsequent such order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph; and'

Further amend the bill in section 2 in that part designated "~~§806.~~" by striking out all of subsection 1 and inserting in its place the following:

'1. Commission. "Commission" means the Maine Human Rights Commission described in Title 5, chapter 337, subchapter II.'

Further amend the bill in section 2 in that part designated "~~§806.~~" by striking out all of subsection 4.

Further amend the bill in section 2 in that part designated "~~§806.~~" by renumbering the subsections to read consecutively.

Further amend the bill in section 2 by striking out all of that part designated "§807." and inserting in its place the following:

§807. Requirements

In addition to employer responsibilities set forth in rules adopted under Title 5, section 4572, all employers shall act to ensure a workplace free of sexual harassment by implementing the following minimum requirements.

1. Workplace posting. An employer shall post in a prominent and accessible location in the workplace a poster providing, at a minimum, the following information: the illegality of sexual harassment; a description of sexual harassment, utilizing examples; the complaint process available through the commission; and directions on how to contact the commission. The text of this poster may meet but may not exceed 6th-grade literacy standards. Upon request, the commission shall provide this poster to employers at a price that reflects the cost as determined by the commission. This poster may be reproduced.

2. Employee notification. Employers shall provide annually all employees with individual written notice that includes at a minimum the following information: the illegality of sexual harassment; the definition of sexual harassment under state law; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D. This notice must be initially provided within 90 days after the effective date of this subchapter. The notice must be delivered in a manner to ensure notice to all employees without exception, such as including the notice with an employee's pay.

3. Education and training. In workplaces with 15 or more employees, employers shall conduct an education and training program for all new employees within one year of commencement of employment that includes, at a minimum, the following information: the illegality of sexual harassment; the definition of sexual harassment under state and federal laws and federal regulations, including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment, utilizing examples; the internal complaint process available to the employee; the legal recourse and complaint process available through the commission; directions on how to contact the commission; and the protection against retaliation as provided under Title 5, section 4553, subsection 10, paragraph D.

2 Employers shall conduct additional training for supervisory and  
3 managerial employees within one year of commencement of  
4 employment that includes, at a minimum, the specific  
5 responsibilities of supervisory and managerial employees and  
6 methods that these employees must take to ensure immediate and  
7 appropriate corrective action in addressing sexual harassment  
8 complaints.

9  
10 Education and training programs conducted under this subsection  
11 by the State, a county or a municipality for its public safety  
12 personnel, including, but not limited to, law enforcement  
13 personnel, corrections personnel and firefighters, may be used to  
14 meet training and education requirements mandated by any other  
15 law, rule or other official requirement.'

16 Further amend the bill in section 3 by striking out all of  
17 the last sentence (page 4, lines 4 to 6 in L.D.).

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19 Further amend the bill by inserting at the end before the  
20 statement of fact the following:

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22 **FISCAL NOTE**

23  
24 This bill requires workplace posting, notification, training  
25 and education for employees on issues related to sexual  
26 harassment in the workplace. The Department of Labor will  
27 enforce compliance with the training requirement within existing  
28 resources, although overall investigations and inspections will  
29 decrease. The bill also requires employers to display posters to  
30 be supplied by the Maine Human Rights Commission. The commission  
31 will absorb the costs associated with supplying these posters  
32 within existing budgeted resources.'

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36 **STATEMENT OF FACT**

37 This amendment makes the following changes to the bill.

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40 1. The amendment clarifies that civil penal damages awarded  
41 pursuant to the Maine Human Rights Act may be awarded to the  
42 victim of unlawful discrimination if the victim pursues a private  
43 right of action. If the Maine Human Rights Commission brings the  
44 action on behalf of the victim, the court may award damages to  
45 either the commission, the victim or both, provided that the  
46 total award does not exceed the limits in the bill. It further  
47 clarifies that increased damages may be awarded only in the case  
48 of a 2nd, 3rd or subsequent order against the respondent arising  
49 under the same subchapter of the Maine Human Rights Act.

50  
51 2. The amendment requires that workplace posters be made  
52 available by the Maine Human Rights Commission at cost. The

2 poster may be reproduced. The amendment deletes an unnecessary  
reference to the Department of Labor.

4 3. The amendment removes the requirement that employers  
with 15 or more employees conduct an annual education and  
6 training program for all employees and additional annual training  
for supervisory and managerial employees. Instead, employers are  
8 required to conduct an education and training program for all new  
employees, including managerial and supervisory employees, within  
10 one year of commencement of employment.

12 4. The amendment adds the requirement that employees be  
notified of the employer's internal complaint process regarding  
14 sexual harassment in the annual written notice to employees and  
in the required training.

16 5. The amendment deletes some requirements of the bill  
18 pertaining to the contents of the notice and training, including  
information on the possible recovery of civil penal damages and  
20 the use of interactive instructional modules.

22 6. The amendment provides that education and training for  
public safety personnel need not be in addition to other present  
24 training and education requirements, but may be used to meet such  
requirements.

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Reported by the Committee on Labor  
Reproduced and distributed under the direction of the Clerk of the  
House  
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