

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 399

H.P. 279

House of Representatives, February 6, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RAND of Portland.

Cosponsored by Representative AULT of Wayne, Senator ESTY of Cumberland and Senator CONLEY of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Effect Cost Savings and Ensure Worker Safety by  
Implementing Sexual Harassment Education and Training in the  
Workplace.**

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

2  
3       Sec. 1. 5 MRSA §4613, sub-§2, ¶B, as amended by PL 1989, c.  
4 99, is further amended to read:

6       B. If the court finds that unlawful discrimination  
7 occurred, its judgment shall must specify an appropriate  
8 remedy or remedies therefor for that discrimination. The  
9 remedies may include, but are not limited to:

10           (1) An order to cease and desist from the unlawful  
11 practices specified in the order;

12           (2) An order to employ or reinstate a victim of  
13 unlawful employment discrimination, with or without  
14 back pay;

15           (3) An order to accept or reinstate such a person in a  
16 union;

17           (4) An order to rent or sell a specified housing  
18 accommodation, or one substantially identical ~~thereto~~  
19 to that accommodation if controlled by the respondent,  
20 to a victim of unlawful housing discrimination;

21           (5) An order requiring the disclosure of the locations  
22 and descriptions of all housing accommodations which  
23 that the violator has the right to sell, rent, lease or  
24 manage; and ~~further,~~ forbidding the sale, rental or  
25 lease of ~~any-such~~ that housing accommodations until the  
26 violator has given security to assure compliance with  
27 any order entered against the violator and with all  
28 provisions of this Act. ~~Such-an~~ An order may continue  
29 the court's jurisdiction until the violator has  
30 demonstrated compliance, and may defer decision on some  
31 or all relief until after a probationary period and a  
32 further hearing on the violator's conduct during that  
33 period;

34           (6) An order to pay the victim, in cases of unlawful  
35 price discrimination ~~the--victim--thereof,~~ 3 times the  
36 amount of any excessive price demanded and paid by  
37 reason of ~~such~~ that unlawful discrimination; and

38           (7) An order to pay to the complainant, including the  
39 commission when the commission is the complainant,  
40 civil penal damages not in excess of \$5,000 \$10,000 in  
41 the case of the first order under this Act against the  
42 respondent, not in excess of \$7,500 \$25,000 in the case  
43 of a 2nd ~~such~~ order against the respondent, and not in  
44 excess of \$10,000 \$50,000 in the case of a 3rd or  
45 subsequent ~~such~~ order against the respondent; and  
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2           Sec. 2. 26 MRSA c. 7, sub-c. IV-B is enacted to read:

4                                   **SUBCHAPTER IV-B**

6                                   **SEXUAL HARASSMENT POLICIES**

8           **§806. Definitions**

10           As used in this subchapter, unless the context otherwise  
12           indicates, the following terms have the following meanings.

14           1. Department. "Department" means the Department of Labor.

16           2. Employee. "Employee" means any person engaged to work  
18           on a steady or regular basis, whether full-time or part-time, by  
20           an employer located or doing business in the State.

22           3. Employer. "Employer" means any person, partnership,  
24           firm, association, corporation, employment agency, labor  
26           organization, joint apprenticeship committee or other legal  
28           entity, public or private, that is located or doing business in  
30           the State. The term "employer" includes, but is not limited to:

32           A. Any person, partnership, firm, association or  
34           corporation acting in the interest of any employer, directly  
36           or indirectly; and

38           B. The State in its capacity as an employer.

40           4. Commission. "Commission" means the Maine Human Rights  
42           Commission described in Title 5, chapter 337, subchapter II.

44           5. Sexual Harassment. "Sexual harassment" has the same  
46           meaning as found in rules adopted by the Maine Human Rights  
48           Commission under the Maine Human Rights Act, Title 5, section  
50           4572.

40           **§807. Requirements**

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

50           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; the definition of sexual  
          harassment by examples; the complaint process available through  
          the commission; and directions on how to contact the commission.

2 The text of this poster must meet but not exceed 6th grade  
3 literacy standards. Upon request the department shall provide  
4 this poster to employers at a price that reflects cost as  
5 determined by the department.

6 2. Employee notification. Employers shall provide annually  
7 all employees with individual written notice that includes at a  
8 minimum the following information: the illegality of sexual  
9 harassment; the definition of sexual harassment under state law;  
10 the definition of sexual harassment by examples; the legal  
11 recourse and complaint process available through the commission;  
12 directions on how to contact the commission; protection against  
13 retaliation as provided under Title 5, section 4553, subsection  
14 10, paragraph D; and the recovery of civil penal damages and  
15 other monetary awards provided by the courts, the commission or  
16 the Maine Workers' Compensation Commission. This notice must be  
17 initially provided within 90 days after the effective date of  
18 this subchapter. The notice must be delivered in a manner to  
19 ensure notice to all employees without exception, such as  
20 including the notice with an employee's pay.

21 3. Education and training. In workplaces with 15 or more  
22 employees, employers shall conduct annually an education and  
23 training program for all employees that includes at a minimum,  
24 the following information: the illegality of sexual harassment;  
25 the definition of sexual harassment under state and federal laws  
26 and federal regulations, including the Maine Human Rights Act and  
27 the federal Civil Rights Act of 1964, Title VII; definitions of  
28 sexual harassment by example; the legal recourse and complaint  
29 process available through the commission; directions on how to  
30 contact the commission; protection against retaliation as  
31 provided under Title 5, section 4553, subsection 10, paragraph D;  
32 the recovery of civil penal damages and other monetary awards  
33 provided by the courts, the commission and the Maine Workers'  
34 Compensation Commission; interactive instructional modules that  
35 illustrate the dynamics of sexual harassment in the workplace;  
36 and the responsibilities of employers, supervisors and employees  
37 in responding to incidents of sexual harassment. Employers shall  
38 conduct annually additional training for supervisory and  
39 managerial employees that includes, at a minimum, the specific  
40 responsibilities of supervisory and managerial employees and  
41 methods that these employees must take to ensure immediate and  
42 appropriate corrective action in addressing sexual harassment  
43 complaints.

44 Education and training programs conducted under this subsection  
45 by the State, a county or a municipality for its public safety  
46 personnel, including, but not limited to, law enforcement  
47 personnel, corrections personnel and firefighters, must be in  
48 addition to training and education mandated by any other law,  
49 rule or other official requirement.

