

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2067

S.P. 760

In Senate, January 15, 1998

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### An Act to Prevent Employment Discrimination Due to Medical History.

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President LAWRENCE of York.

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

2  
3       **Sec. 1. 5 MRSA §4572, sub-§1, ¶A**, as amended by PL 1991, c.  
4 885, Pt. E, §7 and affected by §47, is further amended to read:

6       A. For any employer to fail or refuse to hire or otherwise  
7 discriminate against any applicant for employment because of  
8 race or color, sex, physical or mental disability, medical  
9 history or the cost of providing insurance due to the  
10 medical history of the applicant or an applicant's  
11 dependent, religion, age, ancestry or national origin,  
12 because of the applicant's previous assertion of a claim or  
13 right under former Title 39 or Title 39-A or because of  
14 previous actions taken by the applicant that are protected  
15 under Title 26, chapter 7, subchapter V-B; or, because of  
16 those reasons, to discharge an employee or discriminate with  
17 respect to hire, tenure, promotion, transfer, compensation,  
18 terms, conditions or privileges of employment or any other  
19 matter directly or indirectly related to employment; or, in  
20 recruiting of individuals for employment or in hiring them,  
21 to utilize any employment agency that the employer knows or  
22 has reasonable cause to know discriminates against  
23 individuals because of their race or color, sex, physical or  
24 mental disability, medical history or the costs of providing  
25 insurance due to the medical history of the employee or an  
26 employee's dependent, religion, age, ancestry or national  
27 origin, because of their previous assertion of a claim or  
28 right under former Title 39 or Title 39-A or because of  
29 previous actions that are protected under Title 26, chapter  
30 7, subchapter V-B;

32               (1) This paragraph does not apply to discrimination  
33 governed by Title 39-A, section 353;

34       **Sec. 2. 5 MRSA §4573-A, sub-§1**, as enacted by PL 1995, c. 393,  
35 §21, is amended to read:

36       **1. General provisions.** It is a defense to a charge of  
37 discrimination under this subchapter that an alleged application  
38 of qualification standards, tests or selection criteria that  
39 screen out or tend to screen out or otherwise deny a job or  
40 benefit to an individual with a disability or on the basis of the  
41 individual's medical history has been shown to be job-related and  
42 consistent with business necessity, and such performance can not  
43 be accomplished by reasonable accommodation, as required by this  
44 subchapter.  
45

46       **Sec. 3. 5 MRSA §4573-A, sub-§1-B**, as enacted by PL 1995, c.  
47 511, §1 and affected by §3, is amended to read:

2           **1-B. Physical or mental disability or medical history.**  
3 This subchapter does not prohibit an employer from discharging or  
4 refusing to hire an individual with physical or mental disability  
5 or based on the individual's medical history, or subject an  
6 employer to any legal liability resulting from the refusal to  
7 employ or the discharge of an individual with physical or mental  
8 disability or based on the individual's medical history, if the  
9 individual, because of the physical or mental disability or  
10 medical history, is unable to perform the duties or to perform  
11 the duties in a manner that would not endanger the health or  
12 safety of the individual or others or is unable to be at, remain  
13 at or go to or from the place where the duties of employment are  
14 to be performed.

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### SUMMARY

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19           This bill prohibits employment discrimination on the basis  
20 of the applicant's or employee's medical history or the medical  
21 history of an applicant's or employee's dependent unless the  
22 applicant or employee is unable to meet job-related standards or  
23 is unable to perform the job without endangering the health or  
24 safety of that individual or others.