

MAINE STATE LEGISLATURE

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DATE: 5-6-99

(Filing No. H- 477)

LABOR

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 214, L.D. 292, Bill, "An Act to Enhance the Payment Options for Certain Employers"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 26 MRSA §621, as amended by PL 1995, c. 340, §1, is repealed.

Sec. 2. 26 MRSA §621-A is enacted to read:

§621-A. Timely payment of wages

1. Minimum frequency. Every employer must pay all wages earned by each employee at regular intervals not to exceed semimonthly. Each payment must include all wages earned to within 8 days of the payment date. An employee who is absent from work at a time fixed for payment must be paid on demand after that time.

2. Regular payment required. Wages must be paid on an established day or date at regular intervals made known to the employee. When the interval is less than the maximum allowed by subsection 1, the interval may not be increased without written notice to the employee at least 30 days in advance of the increase.

Sec. 3. 26 MRSA §622, as amended by PL 1975, c. 113, §1, is repealed and the following enacted in its place:

COMMITTEE AMENDMENT

§622. Records

Every employer shall keep a true record showing the date and amount paid to each employee pursuant to section 621-A. Every employer shall keep a daily record of the time worked by each such employee unless the employee is paid a salary that is fixed without regard for the number of hours worked. Records required to be kept by this section must be accessible to any representative of the department at any reasonable hour. Sections 621-A to 623 do not excuse any employer subject to section 702 from keeping the records required by that section.

Sec. 4. 26 MRSA §623, as amended by PL 1975, c. 113, §2, is further amended to read:

§623. Exemptions

This section and sections 621 621-A and 622 shall do not apply to family members and salaried employees as defined in section 663, subsection 3, paragraphs J and K. Sections 621-A and 622 do not apply to an employee of a cooperative corporation or association if he the employee is a stockholder therein of the corporation or association, unless he the employee requests such the association or corporation to pay him-weekly that employee in accordance with section 621-A. No A corporation, contractor, person or partnership shall may not by a special contract with an employee or by any other means exempt himself-or itself from this section and sections 621 621-A and 622. Whenever-the-terms-of employment-include-provisions-for-paid-vacations,-vacation-pay-on cessation-of-employment-shall-have-the-same-status-as-wages earned.

Sec. 5. 26 MRSA §626-A, as amended by PL 1993, c. 648, §1, is further amended to read:

§626-A. Penalties

Whoever violates any of the provisions of sections 621 621-A to 623 or section 626, 628, 629 or 629-B is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.

Any employer is liable to the employee or employees for the amount of unpaid wages and health benefits. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages or health benefits under this subchapter, such judgment includes, in addition to the unpaid wages or health benefits adjudged to be due, a reasonable rate of interest, costs of suit including a reasonable attorney's fee, and an additional amount equal to twice the amount of unpaid wages as liquidated damages.

Remedies for unpaid wages do not become available to the employee except as follows. If the wages are clearly due without a bona fide dispute, remedies are available to the employee 8 days after the due date for payment. If there is a bona fide dispute at the time payment is due, remedies become available to the employee 8 days after demand when the wages are, in fact, due and remain unpaid.

The action for unpaid wages or health benefits may be brought by either the affected employee or employees or by the Department of Labor. The Department of Labor is further authorized to supervise the payment of the judgment, collect the judgment on behalf of the employee or employees and collect fines incurred through violation of this subchapter. When the Department of Labor brings an action for unpaid wages or health benefits, this action and an action to collect a civil forfeiture may both be joined in the same proceeding.

Sec. 6. 26 MRSA §626-B, as enacted by PL 1975, c. 113, §5, is repealed.

Sec. 7. 26 MRSA §663, sub-§3, ¶K, as amended by PL 1981, c. 276, is repealed and the following enacted in its place:

K. A salaried employee who works in a bona fide executive, administrative or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3000 times the State's minimum hourly wage.

Sec. 8. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1999-00

LABOR, DEPARTMENT OF

Administration - Bureau of Labor Standards

All Other \$12,134

Provides funds for the costs associated with revising the Regulation of Employment poster.'

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

1999-00

2 **APPROPRIATIONS/ALLOCATIONS**

4 General Fund \$12,134

6
8 This bill will require the revision of the Regulation of
Employment poster by the Department of Labor, Bureau of Labor
Standards. This bill includes a General Fund appropriation of
10 \$12,134 in fiscal year 1999-00 for the Department of Labor for
printing and mailing costs associated with revising the poster.
12 If other bills are enacted that also require changes to the
poster, the cost properly allocated to this bill can be reduced.

14
16 This bill may both increase and decrease the number of civil
violations filed in the court system. The net effect on the
Judicial Department's workload and administrative costs will be
18 minimal. The net effect on the collection of fines will also be
insignificant.'

20
22 **SUMMARY**

24 This amendment repeals the weekly pay requirement that
presently applies only to certain industries and substitutes a
26 general rule requiring that all nonsalaried employees be paid at
least semimonthly. The amendment preserves the current law
28 requiring that each payment include all wages earned to within 8
days of the payment date.

30
32 The amendment further provides that wages must be paid at
regular intervals made known to the employee. A payment interval
that is shorter than the maximum allowed may not be lengthened
34 without 30 days advance notice in writing to the employee.

36 This amendment exempts family members and salaried
employees. It changes the definition of salaried employee by
38 raising the threshold rate of pay from \$175 per week to an
annualized rate of 3000 times the state minimum hourly wage,
40 which is currently \$15,400. It preserves the limitation that
salaried employees are only those who work in a bona fide
42 executive, administrative or professional capacity, which is
language taken from a similar exemption in federal law.

44
46 The amendment strikes from the section relating to
exemptions a redundant sentence pertaining to vacation pay, which
is already included in the Maine Revised Statutes, Title 26,
48 section 626 dealing with cessation of employment.

50 The amendment defines when wages are considered unpaid for
purposes of determining remedies for employees. Wages are unpaid
52 if they are due and remain unpaid for 8 days after they are

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clearly due or 8 days after demand if they are proven to be due
despite a basis for dispute.

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