

N. WS.	L.D. 960
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4	DATE: 4-24-99 (Filing No. H-261)
6	LABOR
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10	Reproduced and distributed under the direction of the Clerk of the House.
12	STATE OF MAINE
14	HOUSE OF REPRESENTATIVES 119TH LEGISLATURE
16	FIRST REGULAR SESSION
18	COMMITTEE AMENDMENT " Ho H.P. 693, L.D. 960, Bill, "An
20	Act to Allow the Bureau of Labor Standards to Assess Administrative Civil Money Penalties for Labor Law Violations"
22	-
24	Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:
26	'Sec. 1. 26 MRSA §52 is enacted to read:
28	<u>§52. Additional penalties</u>
30	In addition to any penalties provided in chapter 7,
32	subchapters I to IV, the director may assess a forfeiture against
34	any employer, officer, agent or other person who violates any provision of chapter 7, subchapters I to IV for each violation of those subchapters. The forfeiture may not exceed \$1,000 or the
36	amount provided in law or rule as a penalty for the specific violation, whichever is less. The Attorney General, upon
38	complaint of the director, shall institute a civil action to recover the forfeiture. Any amount recovered must be deposited
40	with the Treasurer of State. The director shall adopt rules to govern the administration of the civil money forfeiture
42	provisions. The rules must include a right of appeal by the employer and a range of monetary assessments with consideration
44	given to the size of the employer's business, the good faith of the employer, the gravity of the violation and the history of
46	previous violations. The rules adopted pursuant to this section are major substantive rules pursuant to Title 5, chapter 375,
48	subchapter II-A.

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R of S. Sec. 2. 26 MRSA §1308, sub-§1-A is enacted to read: 2 4 1-A. Surveys. The director may require any person to provide information on the wages and benefits provided to that person's employees and such other information as is needed to 6 determine the prevailing wage and benefits. The director may assess a forfeiture of up to \$50 against any person who fails to 8 provide the information as requested. 10 Sec. 3. 26 MRSA §1312, sub-§1, as amended by PL 1997, c. 757, 12 \$10, is further amended to read: 14 1. Violation by contractor or subcontractor. Any Except as provided in section 1308, subsection 1-A, any contractor or 16 subcontractor who willfully and knowingly violates sections 1304 to 1313 is subject to a forfeiture of not less than \$250.' 18 Further amend the bill by inserting at the end before the 20 summary the following: 22 **'FISCAL NOTE** 24 The assessment of civil penalties against employers that violate employment or child labor laws will increase General Fund 26 revenue in amounts that can not be determined at this time. 28 The Department of the Attorney General will incur additional 30 costs to institute the civil actions to recover the penalties. The Department of the Attorney General assumes that the 32 additional enforcement activities associated with the change will be minimal and the costs associated with these activities can be 34 absorbed with the department's existing budgeted resources. The additional workload and administrative costs associated 36 with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial 38 Department. 40 The Department of Labor will incur some minor additional costs to adopt rules to administer the civil money penalty 42 provisions. These costs can be absorbed within the department's existing budgeted resources.' 44 46 SUMMARY 48 This amendment replaces the bill. It limits the amount of

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the forfeiture that the Director of the Bureau of Labor Standards
may assess to \$1,000 or the amount provided in law or rule for the specific violation, whichever is less. It also moves and
provides a monetary limit for the authority to assess a forfeiture for failure to respond to surveys. Finally, it
provides that the rules to implement the assessment of forfeitures are major substantive rules and adds a fiscal note to
the bill.

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