

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 1503, L.D. 2147, Bill, "An Act to Ensure Just Cause Termination in Employment"

Amend the bill by striking out the title and substituting the following:

'An Act to Provide Notice of Termination Status'

Further 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 c. 7, sub-c. X is enacted to read:

SUBCHAPTER X

EMPLOYMENT TERMINATION

§875. Notice of termination status

1. Definitions. As used in this subchapter, "employer" means a person, excluding the State and any political subdivision, agency or instrumentality of the State, who employs 5 or more employees.

2. Notice to employee. Within 30 days after hiring an employee, an employer must notify that employee in writing of the circumstances under which the employee may be terminated. The notice must be substantially in the following form:

COMMITTEE AMENDMENT

2 "Under Maine law, you are an at-will employee and may be
4 terminated for any reason not specifically prohibited by
6 law, unless you are covered by a collective bargaining
agreement or other contract or your employee handbook calls
for termination only for cause. In your case, you may be
terminated:

8 [Employer must designate one of the following:]

10 For any reason not prohibited by law;

12 As provided in the collective bargaining agreement or
14 other contract; or

16 For cause, as provided in the employee handbook."

18 3. Signed verification of receipt. The notice informing
the employee must include a signature line above which the
employee certifies that the employee has received the notice.
20 The employer must retain the original notice, signed by the
employee, and must provide a copy to the employee.

22 **§876. Improper termination**

24 1. Failure to provide notice. An employer may not
26 terminate an employee if the employer did not provide the notice
required in section 875.

28 2. Inconsistent with handbook. An employer may not
30 terminate an employee if the termination is not consistent with
the terms of an employee handbook.

32 **§877. Remedy for improper termination**

34 1. Filing of complaint. An employee who has been
36 terminated in violation of section 876 may file a complaint with
the Superior Court for the county in which the workplace is
38 located no later than 6 months after the effective date of the
termination. The timing for filing a complaint is suspended
40 while the employee pursues any remedies pursuant to any employee
handbook, collective bargaining agreement or contract. An
42 employee must pursue any reasonable procedure contained in an
employee handbook as a condition for filing a complaint under
44 this section, as long as those remedies do not take more than 6
months to complete from the employee's effective date of
46 termination.

48 2. Procedure. Actions instituted pursuant to this
subchapter are governed by the Maine Rules of Civil Procedure,
50 except as otherwise specifically provided.

2 3. Remedies for improper termination. The Superior Court
3 may order:

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5 A. That the employer reinstate the employee to the position
6 held by the terminated employee at the time of termination
7 or a comparable position; and

8
9 B. That the employer pay to the terminated employee full or
10 partial back pay and reimbursement for lost fringe benefits,
11 with interest, reduced by the interim earnings from
12 employment elsewhere, fringe benefits received and amounts
13 that could have been received with reasonable diligence.

14
15 The Superior Court may not award compensatory damages for pain
16 and suffering, emotional distress, defamation, fraud or other
17 injury or any other monetary award, except as provided in this
18 subsection.

19 **§878. Posting and notice requirements**

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21 An employer shall post a copy of this subchapter in a
22 conspicuous place in the work area. If an employer issues an
23 employee handbook, the employer shall provide a copy to each
24 employee and shall promptly provide notice to each employee of
25 any changes in the handbook.

26
27 **§879. Retaliation prohibited**

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29 An employer may not terminate or otherwise discriminate
30 against an employee because the employee signed or filed any
31 affidavit, petition or complaint or gave any information or
32 testimony pursuant to this subchapter.

33
34 **Sec. 2. Regulation of Employment poster.** The Department of
35 Labor shall include notice of the requirements of this Act in its
36 next reprinting of the Regulation of Employment poster.

37
38 **Sec. 3. Application.** Within 30 days after the effective date
39 of this Act, employers must provide the notice required in this
40 Act to each employee hired before the effective date of this
41 Act. An employee terminated prior to the end of that 30-day
42 period is not authorized to file suit under this Act. An
43 employee hired before the effective date of this Act who did not
44 receive the notice required by this section is authorized to
45 bring suit in the same manner as employees hired after the
46 effective date.'

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48 Further amend the bill by inserting at the end before the
49 summary the following:
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FISCAL NOTE

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The additional costs associated with updating its Regulation of Employment poster can be absorbed by the Department of Labor utilizing existing budgeted resources. However, without additional General Fund appropriations for the cost to mail the poster to all employers in the State, estimated to be \$11,000, distribution of the poster to all but a few employers will not be possible.

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This bill may increase the number of civil suits filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional filing fees may also increase General Fund revenue by minor amounts.'

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SUMMARY

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This amendment replaces the bill. It requires employers to inform their employees in writing of the circumstances under which the employee may be terminated. Unless the employee is covered by a collective bargaining agreement, contract or employee handbook, the employee must be notified that the employee is an at-will employee and may be terminated for any cause not specifically prohibited by law, such as illegal discrimination. If an employee who did not receive the required notice is terminated or if the employee's termination is not consistent with the terms of the handbook, the employee may bring suit in Superior Court for reinstatement and back pay.

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