

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1999

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Legislative Document

No. 2314

S.P. 895

In Senate, December 27, 1999

**An Act to Clarify the Maine Human Rights Act Concerning  
Compensatory and Punitive Damages.**

(EMERGENCY)

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

Received by the Secretary of the Senate on December 27, 1999. Referred to the Committee on Judiciary and ordered printed pursuant to Joint Rule 308.2

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator MURRAY of Penobscot.  
Cosponsored by Representative: THOMPSON of Naples.

2           **Emergency preamble. Whereas,** Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

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6           **Whereas,** current law specifies that, in cases of intentional  
employment discrimination, a person may recover punitive and  
compensatory damages under the Maine Human Rights Act only if the  
8           person can not recover those damages under federal human rights  
legislation governing race; and

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12           **Whereas,** this legislation clarifies that such recovery is  
only permissible if the person is unable to recover under the  
federal human rights legislation governing race or general  
14           federal human rights laws governing intentional employment  
discrimination; and

16  
18           **Whereas,** it is imperative that this clarification be made  
immediately so as to eliminate any confusion that may exist  
regarding recovery of damages under the Maine Human Rights Act;  
20           and

22           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
24           Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
26           safety; now, therefore

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

30           **Sec. 1. 5 MRSA §4613, sub-§2, ¶B,** as amended by PL 1997, c.  
400, §1, is further amended by amending subparagraph (8),  
32           division (a) to read:

34                           (a) In an action brought by a complaining party  
under section 4612 and this section against a  
36                           respondent who engaged in unlawful intentional  
discrimination prohibited under sections 4571 to  
38                           4575, if the complaining party can not recover  
under 42 United States Code, Section 1981 (1994)  
40                           or 1981a, the complaining party may recover  
compensatory and punitive damages as allowed in  
42                           this subparagraph in addition to any relief  
authorized elsewhere in this subsection from the  
44                           respondent.

46           **Sec. 2. Retroactivity.** This Act applies retroactively to  
September 19, 1997.

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50           **Emergency clause.** In view of the emergency cited in the  
preamble, this Act takes effect when approved.

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## SUMMARY

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Current law specifies that, in cases of intentional employment discrimination, a person may recover punitive and compensatory damages under the Maine Human Rights Act only if the person can not recover those damages under federal human rights legislation governing race. This bill clarifies that such recovery is only permissible if the person is unable to recover under the federal human rights legislation governing race or general federal human rights laws governing intentional employment discrimination.