

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1619

H.P. 1198

House of Representatives, May 20, 2003

An Act To Provide Equitable Treatment to State Employees

Reference to the Committee on Labor suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative RICHARDSON of Brunswick. (GOVERNOR'S BILL)
Cosponsored by Senator TREAT of Kennebec and
Representatives: CARR of Lincoln, Speaker COLWELL of Gardiner, McNEIL of Rockland,
SMITH of Van Buren, Senators: President DAGGETT of Kennebec, DAVIS of Piscataquis,
EDMONDS of Cumberland, LEMONT of York.

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

4 **Sec. 1. 26 MRSA §664, sub-§3, ¶D,** as enacted by PL 1995, c.
305, §1, is amended to read:

6 D. Public employees, except those employed by the executive,
8 judicial or legislative branch of the State;

10 **Sec. 2. 26 MRSA §670-A** is enacted to read:

12 **§670-A. Remedies for overtime wage violations involving state**
employees

14 Notwithstanding section 670, in an action brought to recover
16 unpaid overtime wages for an employee of the executive, judicial
18 or legislative branch of the State, the judgment or award is
20 limited to the unpaid overtime compensation adjudged to be due,
22 without liquidated damages or attorney's fees. An action for
24 unpaid overtime wages for an employee of the executive, judicial
26 or legislative branch of the State must be brought within 2 years
after the cause of action accrued, except that a cause of action
arising from a willful violation of the overtime wage payment law
must be commenced within 3 years after the cause of action
accrued. Overtime wages are recoverable by employees of the
executive, judicial or legislative branch beginning with the
later of the date the cause of action accrued and the date the
applicable limitations period began.

28 **Sec. 3. 39-A MRSA §102, sub-§11, ¶A,** as amended by PL 2001, c.
30 710, §18 and affected by §19, is further amended by amending
subparagraph (1) to read:

32 (1) Persons engaged in maritime employment or in
34 interstate or foreign commerce who are within the
exclusive jurisdiction of admiralty law or the laws of
36 the United States, except that this section may not be
construed to exempt from the definition of "employee" a
38 person who is employed by the State and is thereby
barred by the State's sovereign immunity from bringing
40 a claim against that person's employer under admiralty
law or other laws of the United States for claims that
42 are otherwise cognizable under this Act;

44 **Sec. 4. Application.** This Act applies to overtime hours
46 worked on or after the effective date of this Act.

SUMMARY

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4 This bill amends certain state labor laws to equalize the
6 treatment of state employees to the treatment of private sector
8 employees. Recent United States Supreme Court cases have ruled
10 that the State, as an employer, can not be sued under certain
 federal employment laws unless the State consents to be sued.
 Instead of waiving immunity to allow the State to be sued under
 federal labor law, this bill amends state labor laws to provide
 remedies to state employees under state law.

12 The bill includes state employees in the law requiring
14 employers to pay time-and-a-half for overtime hours worked.
 Currently all public employees are exempt from that requirement.
 As amended by this bill, the law would continue to exempt local
16 government employees from the law. The bill also amends the
 remedy provision so that state employees who are not paid the
18 appropriate overtime wage recover only the amount of unpaid
 wages, not liquidated damages or attorney's fees as provided for
20 private sector employees. It also provides for a 3-year statute
 of limitations for violations of the minimum wage law for state
22 employees if the violation of the law is willful. The bill
 applies only to overtime hours worked on or after the effective
24 date of the Act.

26 The bill amends the workers' compensation law to provide
28 that state employees who are barred from suing the State under
 admiralty law or certain federal laws because of sovereign
 immunity are not excluded from coverage under the state workers'
30 compensation law.