

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 361, L.D. 1044, Bill, "An Act To Care for Families"

Amend the bill in section 1 in that part designated "~~S636.~~" in subsection 1 by striking out all of paragraphs A and B (page 1, lines 11 to 18 in L.D.) and inserting in their place the following:

'A. "Employer" means a public or private employer with 15 or more employees.

B. "Immediate family member" means an employee's child, spouse or parent.

C. "Paid leave" means time away from work by an employee for which the employee receives compensation, and is limited to sick time, vacation time, compensatory time and leave that is provided as an aggregate amount for use at the discretion of the employee for any of these same purposes. "Paid leave" does not include paid short-term or long-term disability, catastrophic leave or similar types of benefits.'

Further amend the bill in section 1 in that part designated "~~S636.~~" in subsection 2 in the last line (page 1, line 23 in L.D.) by inserting after the following: "ill" the following: 'as provided in this section'

Further amend the bill in section 1 in that part designated "~~S636.~~" by striking out all of subsections 3 to 6 (page 1, lines 25 to 49 in L.D.) and inserting in their place the following:

2 '3. Election of time; amount; process. An employer may
4 adopt a policy limiting the number of hours of paid leave taken
6 under this section, but in no case may the number of hours
8 allowed be fewer than 40 hours for a 12-month period. An
10 employee is not entitled under this section to use paid leave
12 until that leave has been earned. An employee who receives more
14 than one type of paid leave may elect which type and the amount
16 of each of those types of paid leave to use, except that the
18 employee's election may be limited by a bona fide employment
20 policy as long as the policy is uniformly applied to all
22 employees at that workplace. An employer may require notice or
24 verification of illness for leave taken pursuant to this section
26 if such notice or verification is required when an employee takes
28 leave because of the employee's own illness. An employer may
30 require an employee to specify that leave is taken pursuant to
32 this section.

34 4. Relationship to collective bargaining. This section
36 applies to employees covered by a collective bargaining agreement
38 unless the agreement provides paid leave benefits that are equal
40 to or greater than those provided in this section.

42 5. Prohibited actions by employer. An employer may not
44 discharge, demote, suspend, discipline or otherwise discriminate
46 against an employee or threaten to take any of these actions
48 against an employee who exercises rights granted under this
50 section or who files a complaint or testifies or assists in an
52 action brought against the employer for a violation of this
54 section. Nothing in this section prohibits an employer from
56 taking employment action against an employee for taking leave
58 that is not protected by this section or other applicable law.

60 6. Application of family medical leave requirements. For
62 purposes of applying family medical leave requirements, the
64 employer shall treat leave under this section in the same manner
66 as the employer treats leave for a sick employee.

68 7. Penalty. An employer who violates this section is
70 subject to a civil penalty of \$50 for the first violation, \$100
72 for the 2nd violation and \$250 for each subsequent violation,
74 collectible in a civil action by the Department of Labor. For
76 purposes of imposing a penalty for a violation of subsection 2,
78 each day that a request for leave under this section is denied
80 constitutes a separate violation.'

82 Further amend the bill in section 1 in that part designated
84 "\$636." by renumbering the subsections to read consecutively.

SUMMARY

This amendment:

1. Limits application of the bill to employers with 15 or more employees;

2. Narrows and clarifies the definitions of "immediate family member" and "paid leave";

3. Allows employers to limit an employee's use of paid leave for care of a family member to 40 hours per year;

4. Allows employers to eliminate or modify paid leave benefits;

5. Establishes penalties of \$50 for a first violation, \$100 for a 2nd violation and \$250 for each subsequent violation; and

6. Clarifies certain other provisions of the bill.

FISCAL NOTE REQUIRED
(See attached)



Revised: 05/26/05 *MAC*

122nd MAINE LEGISLATURE

LD 1044

LR 1441(02)

An Act To Care for Families

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Undetermined future biennium cost increase - General Fund

Minor revenue increase - General Fund

Fiscal Detail and Notes

This bill will increase costs to local school administrative units and other public and private employers who do not currently provide paid leave for illness of an immediate family member. The amount of these additional costs can be determined at this time. Increased costs to local school administrative units will increase the total future cost of funding K-12 education as well as the level of General Fund appropriations required to fund the State's share beginning in fiscal year 2007-08.

Establishing civil penalties for employers who violate the provisions of this legislation may increase revenues to the General Fund beginning in fiscal year 2005-06. The amount can not be determined at this time and will depend on the number of penalties assessed.

Additional costs to the Department of Labor associated with rulemaking can be absorbed utilizing existing budgeted resources.