

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1697

S.P. 604

March 23, 2007

An Act To Ensure Fair Wages

Reference to the Committee on Labor suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator STRIMLING of Cumberland.
Cosponsored by Representative HARLOW of Portland, Representative TUTTLE of Sanford and Senator: SULLIVAN of York, Representatives: BURNS of Berwick, CLARK of Millinocket, CRESSEY of Cornish, DRISCOLL of Westbrook, HASKELL of Portland, JACKSON of Allagash, RAND of Portland.

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

2 **Sec. 1. 26 MRSA §603, sub-§3, ¶D**, as enacted by PL 1999, c. 750, §1, is
3 amended to read:

4 D. An individual exempt from the definition of employee in section 663, subsection
5 3, paragraph A, ~~B~~, C, F, G, I or J;

6 **Sec. 2. 26 MRSA §663, sub-§3, ¶B** is repealed.

7 **Sec. 3. 26 MRSA §663, sub-§3, ¶E**, as repealed and replaced by PL 1979, c.
8 516, §1, is repealed.

9 **Sec. 4. 26 MRSA §664, sub-§1**, as amended by PL 2005, c. 578, §1, is further
10 amended to read:

11 **1. Minimum wage.** The minimum hourly wage is \$6.50 per hour. Starting October
12 1, 2006, the minimum hourly wage is \$6.75 per hour. Starting October 1, 2007, the
13 minimum hourly wage is \$7.00 per hour. Starting October 1, 2008, the minimum hourly
14 wage is \$7.70 per hour. Starting October 1, 2009, the minimum hourly wage is \$8.40 per
15 hour. On September 30, 2009, and on September 30th of each year thereafter, the
16 Department of Labor shall calculate an adjusted minimum wage rate to maintain
17 employee purchasing power. The adjusted minimum wage must be calculated to the
18 nearest cent using the Consumer Price Index for Urban Wage Earners and Clerical
19 Workers, CPI-W, or a successor index, for the 12 months prior to each September 1st, as
20 calculated by the United States Department of Labor. Each adjusted minimum wage rate
21 so calculated takes effect January 1st of the following year. If the highest federal
22 minimum wage is increased in excess of the minimum wage in effect under this section,
23 the minimum wage under this section is increased to the same amount, effective on the
24 same date as the increase in the federal minimum wage, but in no case may the minimum
25 wage exceed the minimum wage otherwise in effect under this section by more than \$1
26 per hour.

27 **Sec. 5. 26 MRSA §664, sub-§2**, as enacted by PL 1995, c. 305, §1, is amended to
28 read:

29 **2. Tip credit.** An employer may consider tips as part of the wages of a service
30 employee, but such a tip credit may not exceed ~~50% of the minimum hourly wage~~
31 ~~established in this section~~ \$3 per hour. An employer who elects to use the tip credit must
32 inform the affected employee in advance and must be able to show that the employee
33 receives at least the minimum hourly wage when direct wages and the tip credit are
34 combined. Upon a satisfactory showing by the employee or the employee's
35 representative that the actual tips received were less than the tip credit, the employer shall
36 increase the direct wages by the difference.

37 **Sec. 6. 26 MRSA §664, sub-§3, ¶B**, as enacted by PL 1995, c. 305, §1, is
38 repealed.

1 **Sec. 7. 26 MRSA §664, sub-§3, ¶E**, as amended by PL 2001, c. 628, §1 and
2 affected by §5, is repealed.

3 **Sec. 8. 26 MRSA §670**, as amended by PL 1965, c. 410, §8, is further amended to
4 read:

5 **§670. Employees' remedies**

6 ~~Any~~ An employer ~~shall be~~ is liable to ~~the~~ an employee ~~or employees~~ for the amount
7 of unpaid minimum wages. Upon a judgment being rendered in favor of any employee ~~or~~
8 ~~employees~~, in any action brought to recover unpaid wages under this subchapter, such a
9 judgment ~~shall~~ must include, in addition to the unpaid wages adjudged to be due, an
10 additional amount equal to such wages as liquidated damages, ~~and~~ costs of suit including
11 a reasonable attorney's ~~fee~~ fees and a civil penalty of not less than \$1,000 nor more than
12 \$10,000, 90% of which civil penalty must be paid to the State.

13 An employer is liable to an employee for discharging or in any other manner
14 discriminating against any employee because the employee in any way invokes that
15 employee's rights or the rights of another under this subchapter. Upon a judgment being
16 rendered in favor of any employee or employees, in any action brought for retaliation
17 under this subchapter, such a judgment must include, in addition to compensatory
18 damages, costs of suit including reasonable attorney's fees and a civil penalty of not less
19 than \$1,000 nor more than \$10,000, 90% of which civil penalty must be paid to the State.

20 On October 1st of each year, beginning on October 1, 2008, the minimum and
21 maximum civil penalties under this section must be adjusted by the Department of Labor
22 to reflect changes in the Consumer Price Index for Urban Wage Earners and Clerical
23 Workers, CPI-W, or a successor index, for the 12 months prior to each September 1st, as
24 calculated by the United States Department of Labor.

25 **Sec. 9. 26 MRSA §671**, as amended by PL 1971, c. 620, §13, is further amended
26 to read:

27 **§671. Penalties**

28 ~~Any~~ An employer who violates this subchapter ~~shall~~ must, upon conviction thereof,
29 be punished by a fine of not less than ~~\$50~~ \$1,000 nor more than ~~\$200~~ \$10,000. Ten
30 percent of any fine must be awarded to the employee injured by the violation.

31 ~~Any~~ An employer, who discharges or in any other manner discriminates against any
32 employee because ~~such~~ the employee ~~makes a complaint to the director or to the county~~
33 ~~attorney concerning a violation of~~ in any way invokes that employee's rights or the rights
34 of another under this subchapter, shall must be punished by a fine of not less than ~~\$50~~
35 \$1,000 nor more than ~~\$200~~ \$10,000. Ten percent of any fine must be awarded to the
36 employee injured by the violation.

37 On October 1st of each year, beginning on October 1, 2008, the minimum and
38 maximum fines under this section must be adjusted by the Department of Labor to reflect
39 changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers,

1 CPI-W, or a successor index, for the 12 months prior to each September 1st, as calculated
2 by the United States Department of Labor.

3 In the event of the violation of any of the provisions of this subchapter, the Attorney
4 General may institute injunction proceedings in the Superior Court to enjoin further
5 violation thereof.

6 **SUMMARY**

7 This bill increases the minimum wage to \$7.70 per hour in 2008 and to \$8.40 per
8 hour in 2009. Each year after that, the minimum wage is adjusted based on changes in
9 prices, so that the minimum hourly wage will retain its purchasing power. The price
10 adjustment is based on the change in the Consumer Price Index.

11 The bill also removes exemptions to the State's minimum wage and overtime laws.
12 The bill also changes the tip credit to \$3 per hour rather than 50% of the state minimum
13 wage as under current law.

14 The bill also amends the laws governing enforcement of minimum wage and
15 overtime laws by increasing penalties, increasing remedies in private civil actions and
16 expanding the scope of antiretaliation provisions.