

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

SM
ROES

L.D. 1157

Date: 6/7/13

(Filing No. H-402)

Majority

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 822, L.D. 1157, Bill, "An Act To Establish the Fair Chance for Employment Act"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 26 MRSA c. 7, sub-c. 1-C is enacted to read:

SUBCHAPTER 1-C

FAIR CHANCE FOR EMPLOYMENT ACT

§614. Short title

This subchapter may be known and cited as "the Fair Chance for Employment Act."

§615. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Current employment status. "Current employment status" means an individual's current status as employed or unemployed.

2. Employer. "Employer" means a person engaged in commerce or any industry or activity affecting commerce that has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and includes:

A. A person who acts, directly or indirectly, in the interest of an employer with respect to employing individuals to work for the employer; and

B. Any successor in interest of an employer.

3. Employment agency. "Employment agency" means a person regularly undertaking, with compensation and for profit, to procure employees for an employer or

COMMITTEE AMENDMENT

ROFS

1 to procure for individuals opportunities to work for an employer and includes an agent of
2 such a person.

3 **4. Online job website.** "Online job website" means any publicly accessible website
4 that provides online job postings.

5 **5. Person.** "Person" means an individual, partnership, association, corporation,
6 business trust, legal representative or any organized group of persons.

7 **§616. Prohibited acts**

8 **1. Employers; unlawful practices.** An employer may not publish, in print, on the
9 Internet or in any other medium, an advertisement or announcement for a job vacancy
10 that includes:

11 A. A provision stating or indicating that current employment status is a requirement
12 or qualification for the job; or

13 B. A provision stating or indicating that an employer will not consider an individual
14 for employment based on current employment status.

15 **2. Employment agencies; unlawful practices.** An employment agency may not
16 publish, in print, on the Internet or in any other medium, an advertisement or
17 announcement for a job vacancy that includes:

18 A. A provision stating or indicating that current employment status is a requirement
19 or qualification for the job; or

20 B. A provision stating or indicating that the employer will not consider individuals
21 for employment based on current employment status.

22 **3. Online job websites; unlawful practices.** A person may not publish on an online
23 job website an advertisement or announcement for a job vacancy that includes:

24 A. A provision stating or indicating that current employment status is a requirement
25 or qualification for the job; or

26 B. A provision stating or indicating that the employer will not consider individuals
27 for employment based on current employment status.

28 **4. Civil violation.** A person that violates subsection 1, 2 or 3 commits a civil
29 violation for which a fine of not less than \$250 and not more than \$1,000 for each
30 violation, payable to the State, may be adjudged.

31 **§617. Exception**

32 This subchapter does not apply to instances in which current employment status is a
33 bona fide occupational qualification reasonably necessary to successful performance in
34 the job.

35 **§618. Employment history**

36 Nothing in this subchapter is intended to preclude an employer or employment
37 agency from considering an individual's employment history or from examining the
38 reasons underlying an individual's employment status in assessing an individual's ability
39 to perform a job or otherwise making employment decisions about that individual.

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**LABOR, DEPARTMENT OF
Regulation and Enforcement 0159**

Initiative: Provides funding for one Labor and Safety Inspector position and associated All Other costs due to an expected increase in education, outreach and enforcement activity as a result of the prohibition against employers and employment agencies advertising that current employment status is a qualification or requirement for a job.

GENERAL FUND	2013-14	2014-15
POSITIONS - LEGISLATIVE COUNT	1.000	1.000
Personal Services	\$43,031	\$59,871
All Other	\$9,900	\$13,200
GENERAL FUND TOTAL	\$52,931	\$73,071

SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Labor, Commerce, Research and Economic Development, changes the bill establishing the Fair Chance for Employment Act by striking most of the bill except for the prohibition on employers and employment agencies advertising in print, on the Internet or in any other medium that current employment status is a qualification or requirement for a job or that the employer will not consider an applicant based on current employment status. Similarly, no person may advertise on an online job posting that current employment status is a qualification or requirement for a job or that the employer will not consider an applicant based on current employment status.

The only penalty from the bill that the amendment retains is the fine of \$250 to \$1,000 for each violation. The amendment also retains the bill's exception for instances when current employment status is related to a bona fide occupational requirement and clarifies that an employer or employment agency retains the right to consider employment history or the reasons underlying an individual's employment status when making employment decisions about an individual.

This amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



126th MAINE LEGISLATURE

LD 1157

LR 18(02)

An Act To Establish the Fair Chance for Employment Act

Fiscal Note for Bill as Amended by Committee Amendment *A (H-402)*
 Committee: Labor, Commerce, Research and Economic Development
 Fiscal Note Required: Yes

Fiscal Note

	FY 2013-14	FY 2014-15	Projections FY 2015-16	Projections FY 2016-17
Net Cost (Savings)				
General Fund	\$52,931	\$73,071	\$75,800	\$78,795
Appropriations/Allocations				
General Fund	\$52,931	\$73,071	\$75,800	\$78,795

Correctional and Judicial Impact Statements

Establishes new civil violations.

The collection of additional fines may also increase General Fund revenue by minor amounts.

Fiscal Detail and Notes

This bill includes General Fund appropriations of \$52,931 in fiscal year 2013-14 and \$73,071 in fiscal year 2014-15 to the Regulation and Enforcement program within the Department of Labor for one Labor and Safety Inspector position and related all other costs to support an expected increase in education, outreach and enforcement activity as a result of the provisions in this legislation that prohibit employers and employment agencies, when advertising for a job vacancy, to state that current employment status is a qualification or requirement for the job.

The additional costs to the Department of the Attorney General are expected to be minor and can be absorbed utilizing existing budgeted resources.