

MAINE STATE LEGISLATURE

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3/11/17
R. O. S.

Report A

Date: 4/14/17

L.D. 487

(Filing No. H-49)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 350, L.D. 487, Bill, "An Act To Promote Keeping Workers in Maine"

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

'Sec. 1. 26 MRSA c. 7, sub-c. 12 is enacted to read:

SUBCHAPTER 12

NONCOMPETE AGREEMENTS

§879. Noncompete agreements

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

A. "Federal poverty level" means the nonfarm income official poverty line for an individual, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, subsection 2.

B. "Noncompete agreement" means a contract or contract provision that prohibits an employee or prospective employee from working in the same or similar profession or in a specified geographic area for a certain period of time following termination of employment.

2. Prohibited for certain workers. An employer may not require or permit an employee earning wages at or below 300% of the federal poverty level to enter into a noncompete agreement with the employer.

3. Disclosure; notice. An employer shall disclose in any advertisement for a position of employment with the employer that will require the acceptance of a noncompete agreement a statement that a noncompete agreement will be required.

COMMITTEE AMENDMENT

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An employer shall notify an employee or prospective employee of a noncompete agreement requirement and provide a copy of the noncompete agreement not less than 3 business days before the employer requires the agreement to be signed to allow time for the employee or prospective employee to review the agreement and negotiate the terms of the agreement or employment with the employer if the employee or prospective employee wishes to do so.

4. Effective date of a noncompete agreement. Except for a noncompete agreement between an employer and an allopathic physician or an osteopathic physician licensed under Title 32, chapter 48 or chapter 36, respectively, the terms of a noncompete agreement do not take effect until after one year of the employee's employment with the employer or a period of 6 months from the date the agreement was signed, whichever is later.

5. Penalty; enforcement. A person that violates subsection 2 or 3 commits a civil violation for which a fine of not less than \$5,000 may be adjudged. The Department of Labor shall enforce this subchapter.

6. Application. This subchapter applies to all noncompete agreements entered into or renewed after the effective date of this subchapter.

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

LABOR, DEPARTMENT OF

Regulation and Enforcement 0159

Initiative: Provides ongoing funds for one half-time Labor and Safety Inspector position and related All Other costs associated with enforcing the laws related to noncompete agreements.

GENERAL FUND	2017-18	2018-19
POSITIONS - LEGISLATIVE COUNT	0.500	0.500
Personal Services	\$25,869	\$34,492
All Other	\$6,732	\$7,482
GENERAL FUND TOTAL	\$32,601	\$41,974

SUMMARY

This amendment replaces the bill, which is a concept draft, and prohibits an employer from requiring or entering into a so-called noncompete agreement with an employee earning wages that are at or below 300% of the federal poverty level. A noncompete agreement is defined as a contract or contract provision that prohibits an employee or prospective employee from working in the same or similar profession or in a specified geographic area for a certain period of time following termination of employment. If an employer requires a noncompete agreement for a position of employment, the employer must disclose that requirement in any advertisement for that position, and an employer must provide an employee or prospective employee with a copy of a noncompete

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agreement at least 3 business days before requiring that employee or prospective employee to sign the agreement. The terms of a noncompete agreement, except for a noncompete agreement with a physician, are not in effect until after an employee has been employed with the employer for at least one year or a period of 6 months has passed, whichever is later. An employer that violates this law commits a civil violation for which a fine of not less than \$5,000 may be adjudged. The Department of Labor is responsible for enforcement of the law. The amendment also adds an appropriations and allocations.

FISCAL NOTE REQUIRED

(See attached)



128th MAINE LEGISLATURE

LD 487

LR 378(02)

An Act To Promote Keeping Workers in Maine

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-49)
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

	FY 2017-18	FY 2018-19	Projections FY 2019-20	Projections FY 2020-21
Net Cost (Savings)				
General Fund	\$32,601	\$41,974	\$43,354	\$44,789
Appropriations/Allocations				
General Fund	\$32,601	\$41,974	\$43,354	\$44,789

Correctional and Judicial Impact Statements

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 \$32,601 in fiscal year 2017-18 and \$41,974 in fiscal year 2018-19 to the Regulation and Enforcement program within the Department of Labor for one half-time Labor and Safety Inspector position and related All Other costs associated with the enforcement of the laws related to noncompete agreements. This fiscal note assumes this legislation becomes effective October 1, 2017.