

MAINE STATE LEGISLATURE

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REPORT A

Date: 5/2/19

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LABOR AND HOUSING

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

129TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 110, L.D. 369, Bill, "An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees"

Amend the bill by striking out the title and substituting the following:

'An Act Authorizing Earned Employee Leave'

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

'Sec. 1. 26 MRSA §42-B, sub-§1, ¶¶E and F, as enacted by PL 2017, c. 219, §2, are amended to read:

E. Video display terminal safety as described in section 252, subsection 1; and

F. Minimum wage and overtime provisions as described in section 664; and

Sec. 2. 26 MRSA §42-B, sub-§1, ¶G is enacted to read:

G. Earned paid leave.

Sec. 3. 26 MRSA §637 is enacted to read:

§637. Earned paid leave

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

A. "Employment" has the same meaning as in section 1043, subsection 11, but does not include employment in a seasonal industry as defined in section 1251.

B. "Employer" has the same meaning as in section 1043, subsection 9.

C. "Employee" means a person engaged in employment.

2. Earned paid leave. An employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall

1 permit each employee to earn paid leave based on the employee's base pay as provided in
2 this section.

3 **3. Accrual.** An employee is entitled to earn one hour of paid leave from a single
4 employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual
5 of leave begins at the start of employment, but the employer is not required to permit use
6 of the leave before the employee has been employed by that employer for 120 days
7 during a one-year period.

8 **4. Rate.** An employee while taking earned leave must be paid at least the same base
9 rate of pay that the employee received immediately prior to taking earned leave and must
10 receive the same benefits as those provided under established policies of the employer
11 pertaining to other types of paid leave.

12 **5. Notice.** Absent an emergency, illness or other sudden necessity for taking earned
13 leave, an employee shall give reasonable notice to the employee's supervisor of the
14 employee's intent to use earned leave. Use of leave must be scheduled to prevent undue
15 hardship on the employer as reasonably determined by the employer.

16 **6. Benefits.** The taking of earned leave under this section may not result in the loss
17 of any employee benefits accrued before the date on which the leave commenced and
18 may not affect the employee's right to health insurance benefits on the same terms and
19 conditions as applicable to similarly situated employees. Nothing in this section prevents
20 an employer from providing a benefit greater than that provided by this section.

21 **7. Enforcement.** The bureau has the exclusive authority pursuant to section 42 to
22 enforce this section.

23 **8. Penalties.** Penalties for violations of this section are the same as those provided
24 in section 53.

25 **9. Preemption.** A municipality or other political subdivision may not enact an
26 ordinance or other rule purporting to have the force of law under its home rule or other
27 authority regulating earned paid leave.

28 **10. Rules.** The Department of Labor shall adopt rules to implement and enforce the
29 provisions of this section, including rules regarding the receipt, investigation and
30 prosecution of complaints brought under this section. Rules adopted pursuant to this
31 subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

32 **11. Exception.** This section does not apply to an employee covered by a collective
33 bargaining agreement during the period between January 1, 2021 and the expiration of the
34 agreement.

35 **12. Reporting.** Beginning January 1, 2022, and annually thereafter, the Department
36 of Labor shall submit a report to the joint standing committee of the Legislature having
37 jurisdiction over labor matters on progress made in the State to comply with this section.

38 **Sec. 4. Effective date.** This Act takes effect January 1, 2021.'

39 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
40 section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the Joint Standing Committee on Labor and Housing, replaces the title and the bill. This amendment does the following:

1. It requires an employer, except in a seasonal industry, that employs more than 10 employees for more than 120 days in any calendar year to permit each employee to earn paid leave based on the employee's base pay;

2. It specifies that an employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment, with accrual of leave beginning at the start of employment;

3. It requires an employee to work for 120 days before an employer is required to permit use of accrued earned paid leave;

4. It requires an employer to pay an employee taking earned leave at least the same base rate of pay that employee received immediately prior to taking earned leave and provide the same benefits as those provided under established policies of the employer pertaining to other types of paid leave;

5. It requires an employee, absent an emergency, illness or other sudden necessity for taking earned leave, to give reasonable notice to the employee's supervisor of the employee's intent to use leave;

6. It specifies that an employee taking earned leave maintains any employee benefits accrued before the date on which the leave commenced and the leave may not affect the employee's right to health insurance benefits on the same terms and conditions as applicable to similarly situated employees;

7. It provides the Department of Labor, Bureau of Labor Standards the exclusive authority to enforce the law and requires the Department of Labor to adopt routine technical rules to implement and enforce the law;

8. It allows for the imposition of penalties currently established in the Maine Revised Statutes, Title 26, section 53;

9. It preempts the authority of a municipality or other political subdivision to enact any ordinance or other rule purporting to have the force of law under its home rule or other authority regulating earned paid leave;

10. It requires the Department of Labor to adopt routine technical rules to implement and enforce provisions regarding earned paid leave;

11. It specifies that earned paid leave does not apply to an employee covered by a collective bargaining agreement during the period between January 1, 2021 and the expiration of the collective bargaining agreement; and

12. It requires the Department of Labor, beginning January 1, 2022 and annually thereafter, to report progress to the joint standing committee of the Legislature having jurisdiction over labor matters.

FISCAL NOTE REQUIRED
(See attached)



129th MAINE LEGISLATURE

LD 369

LR 150(02)

An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-79)
Committee: Labor and Housing
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any penalty assessed by the Department of Labor pursuant to section 637, subsection 9 of this Act accrues to the General Fund. No estimate of these penalties can be made at this time. Additional costs to the Department of Labor to enforce the requirements of this legislation can be absorbed within existing budgeted resources.

Some providers of Department of Health and Human Services (DHHS) services are paid through a cost-settlement process. If those providers do not currently provide earned paid sick leave, their costs could increase due to this proposal. If the providers' costs increase, then DHHS would also have an increase in the amount paid to those providers. It is not known how many cost-settled providers are currently paying earned paid sick leave or what the increased cost would be, but DHHS expects any additional costs to be minor and can be absorbed within existing budgeted resources.