

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1624

S.P. 521

In Senate, April 23, 2019

**An Act To Prevent Discrimination under the Maine Workers'
Compensation Act of 1992**

Reference to the Committee on Labor and Housing suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.

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

2 **Sec. 1. 39-A MRSA §353, first ¶**, as amended by PL 2015, c. 297, §20, is further
3 amended to read:

4 An employee may not be discriminated against by any employer in any way for
5 testifying or asserting any claim or right under this Act. It is a violation of this section if
6 the fact that an employee testifies or asserts a claim or right under this Act against an
7 employer constitutes any portion of the basis upon which an employer disciplines or
8 terminates the employee or discriminates against the employee in any way. Any
9 employee who is so discriminated against may file a petition alleging a violation of this
10 section. The matter must be referred to an administrative law judge for a formal hearing
11 under section 315, but any administrative law judge who has previously rendered any
12 decision concerning the claim must be excluded. If the employee prevails at this hearing,
13 the administrative law judge may award the employee reinstatement to the employee's
14 previous job, payment of back wages, reestablishment of employee benefits and
15 reasonable attorney's fees.

16 **SUMMARY**

17 Current law provides that an employer may not discriminate against an employee for
18 asserting a workers' compensation claim. In Maietta v. Town of Scarborough, 2004 ME
19 97, 854 A.2d 223, the Law Court interpreted this provision as prohibiting discrimination
20 against an employee only if the assertion of the workers' compensation claim was the
21 primary basis or cause for the employer's adverse action against the employee. This bill
22 amends the law to specify that if an employee's assertion of a workers' compensation
23 claim or right constitutes any part of the basis upon which an employer decides to
24 discipline or terminate an employee, it is a violation of the prohibition.