

MAINE STATE LEGISLATURE

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L.D. 358

(Filing No. H-471)

Date: 6-8-21

MINORITY
LABOR AND HOUSING

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 256, L.D. 358, "An Act To Protect Workers from Unsafe Working Conditions with Regard to Indoor Temperatures"

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

'An Act To Protect Workers from Unsafe Working Conditions with Regard to Temperatures'

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

Sec. 1. 26 MRSA §563, sub-§4-A is enacted to read:

4-A. Direct threat. "Direct threat" means a significant risk of substantial harm.

Sec. 2. 26 MRSA §563, sub-§8 is enacted to read:

8. Negligent. "Negligent" means, with regard to an action or an omission of an action, could reasonably be foreseen to cause an injury to an employee.

Sec. 3. 26 MRSA §563, sub-§9 is enacted to read:

9. Workplace. "Workplace" means any plant, yard, premises, room or other place where an employee or employees are engaged in the performance of labor or service over which the employer has the right of access or control.

Sec. 4. 26 MRSA §563, sub-§10 is enacted to read:

10. Workshop. "Workshop" means the premises, room or place where manual labor is performed for the purpose of financial gain or a location that is incidental to any process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article and over which the employer has the right of access or control. "Workshop" does not include a factory.

Sec. 5. 26 MRSA §565-C is enacted to read:

§565-C. Maximum temperatures and minimum temperatures in places of employment

COMMITTEE AMENDMENT

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1. Temperatures. An employer shall maintain temperatures at workplaces and workshops to ensure there is no direct threat to employees according to rules adopted by the board.

2. Duty owed to employee. An employer has a duty to the employee to act to comply with this section. An employer has breached its duty and is negligent when an employee is at an increased risk or has a credible fear that there might be a significant risk of a direct threat to the employee in the performance of the essential functions of a job. The employer has a legal obligation to consider whether the risk can be eliminated or reduced to an acceptable level with a reasonable accommodation. When an employee declares that such a direct threat exists, the decision must be based on objective, factual evidence regarding an employee's ability to perform the essential functions of a job.

3. Rules. The board shall adopt rules establishing maximum and minimum temperatures for places of employment pursuant to this section by January 17, 2022. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Regulation and Enforcement 0159

Initiative: Provides ongoing funds for 4 Labor and Safety Inspector positions, one Occupational Health and Safety Program Supervisor position, one Office Associate II position and related All Other costs to enforce the minimum temperature and maximum temperature requirement in places of employment.

GENERAL FUND	2021-22	2022-23
POSITIONS - LEGISLATIVE COUNT	6.000	6.000
Personal Services	\$379,367	\$523,217
All Other	\$30,734	\$30,734
GENERAL FUND TOTAL	<u>\$410,101</u>	<u>\$553,951</u>

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

SUMMARY

This amendment, which is the minority report of the committee, requires the Department of Labor, Board of Occupational Safety and Health to establish minimum temperatures and maximum temperatures in places of employment.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 358

LR 1248(03)

An Act To Protect Workers from Unsafe Working Conditions with Regard to Indoor Temperatures

Fiscal Note for Bill as Amended by Committee Amendment *(ACH-471)*
 Committee: Labor and Housing
 Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings) General Fund	\$410,101	\$553,951	\$570,694	\$587,973
Appropriations/Allocations General Fund	\$410,101	\$553,951	\$570,694	\$587,973

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations of \$410,101 in fiscal year 2021-22 and \$553,951 in fiscal year 2022-23 to the Regulation and Enforcement program within the Department of Labor for 4 Labor and Safety Inspector positions, one Occupational Health and Safety Program Supervisor position, one Office Associate II position and related All Other costs to enforce the minimum temperature and maximum temperature requirement in places of employment.