

Amendment to LD 1190, “An Act to Ensure a Fair Workweek by Requiring Notice of Work Schedules”

Draft as of 5/31/23

Replace the bill with the following:

New title: An Act to Require Minimum Pay for Reporting

Sec 1. 26 MRS §626-A is amended to read:

§626-A. Penalties

Whoever violates any of the provisions of section 600-A, sections 621-A to 623 or section 626, 628, 628-A, 629, ~~or 629-B~~ or 639-A is subject to a forfeiture of not less than \$100 nor more than \$500 for each violation.

Any employer is liable to the employee or employees for the amount of unpaid wages and health benefits. Upon a judgment being rendered in favor of any employee or employees, in any action brought to recover unpaid wages or health benefits under this subchapter, such judgment includes, in addition to the unpaid wages or health benefits adjudged to be due, a reasonable rate of interest, costs of suit including a reasonable attorney's fee, and an additional amount equal to twice the amount of unpaid wages as liquidated damages.

Remedies for unpaid wages do not become available to the employee except as follows. If the wages are clearly due without a bona fide dispute, remedies are available to the employee 8 days after the due date for payment. If there is a bona fide dispute at the time payment is due, remedies become available to the employee 8 days after demand when the wages are, in fact, due and remain unpaid.

The action for unpaid wages or health benefits may be brought by either the affected employee or employees or by the Department of Labor. The Department of Labor is further authorized to supervise the payment of the judgment, collect the judgment on behalf of the employee or employees and collect fines incurred through violation of this subchapter. When the Department of Labor brings an action for unpaid wages or health benefits, this action and an action to collect a civil forfeiture may both be joined in the same proceeding.

Sec 2. 26 MRS §639-A is enacted to read

§639-A. Minimum Pay for Reporting

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

A. "Employer" has the same meaning as in section 1043, subsection 9, but does not include a public employer as defined in section 626.

B. "Employee" has the same definition as in section 663, but does not include an individual employed in a seasonal industry as defined in section 1251.

2. Size of employer. This section shall apply to employers which employ more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year.

3. Minimum pay for reporting. On any day an employee reports to work at the request of an employer, the employee must be paid either:

- a. two hours of pay at the employee's regular hourly rate of pay, or
- b. the total pay for the shift the employee was initially scheduled for, whichever is smaller.

4. Notice. No employer who makes a documented good faith effort to notify an employee not to report to work is liable to pay wages under this section. If the employee reports to work after the employer's attempt to notify the employee has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer at the time the employee reports to work, providing the employee is physically able to perform those duties.

5. Exceptions. The provisions of this section do not apply if an employee is not required to work due to:

- adverse weather conditions,
- natural disaster or civil emergency, or
- a workplace injury or poor health of the employee.

6. Rules. The Department of Labor may adopt rules to implement and enforce the provisions of this section, Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This amendment replaces the bill and changes the title. This amendment provides that on any day an employee reports to work at the request of an employer, the employee must be paid a minimum of two hours of pay at the employee's regular hourly rate of pay, or less if the employee was originally scheduled for fewer than two hours. An employer who makes a good faith effort to notify an employee not to report to work is not liable to pay wages. If the employee reports to work after the employer's attempt to notify the employee has been unsuccessful or if the employer is prevented from making notification for any reason, the employee shall perform whatever duties are assigned by the employer at the time the employee reports to work. The provision does not apply when an employee is not required to work due to adverse weather

conditions, natural disaster, civil emergency, or a workplace injury or poor health of the employee. The bill only applies to employers who employ at least 10 employees for at least 120 days per year. The bill does not apply to public employers, nor to certain seasonal employers.