



MAINE AFL-CIO

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Testimony of Maine AFL-CIO Legislative & Political Director, Adam Goode, in Support of LD 2184, "Resolve, Regarding Legislative Review of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards"

Senator Tipping, Representative Roeder and members of the Labor & Housing Committee, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support of the proposed rule changes to 12-170 Chapter 9, Administrative Civil Money Penalties for Labor Law Violations found in LD 2184

We strongly support of the intent of these rule changes. Increasing fines and simplifying procedures will help ensure that companies who violate labor laws are held accountable. We also believe that effective enforcement of labor laws will serve as a deterrent, preventing exploitation of workers.

Based on information provided by the Maine Center for Economic Policy, for the three full years from 2021 to 2023 employers who the Maine Bureau of Labor Standards found to have violated wage and hour laws paid an average penalty of just \$9.61 per violation. Penalties of such a small amount cannot be justified as a sufficient deterrent for an employer tempted to cut corners by exploiting workers.

While there are many types of labor violations, one of the most typical is wage theft. Wage theft is deeply harmful to working people and it provides an unfair advantage to low road employers over the vast majority of Maine businesses who play by the rules. We know that these problems persist in every State, Maine being no different. Nationally, wage theft costs workers hundreds of millions of dollars each year.¹ This happens across industries, but is concentrated in lower wage sectors of the economy. A 2014 study found that nationally nearly 90% of fast-food workers suffered some sort of wage theft on the job.²

As a general rule of thumb, we support the approach embodied in the proposed rules. Starting with the maximum fine instead of the current protocol of starting with the minimum fine is the right approach. The multiplier process outlined in Section(II) provides for options to reduce the penalty based on employers demonstrating good faith,

¹Brady Meixell & Ross Eisenbrey, Economic Policy Institute, *An Epidemic of Wage Theft is Costs Workers Hundreds of Millions of Dollars a Year* (Sept. 2014).

²Catherine Ruckelhaus et al, National Employment Law Project, *Who's the Boss: Restoring Accountability for Labor Standards in Outsourced Work* (May 2014).

³https://smlr.rutgers.edu/sites/default/files/Documents/Centers/CIWO/2018_introductiontostrategicenforcement.pdf

grave situations, one off violations and the size of the business. We think these are reasonable options to reduce a penalty and could not think of any ways to improve this section.

In Section I(H) we support the deletion of “willful” violations as the new version of the categories allow an employer to qualify for a multiplier account for whether there is intentional or reckless disregard for the law. We support the definition of “Grave Violation” in Section I(E) as a way to encompass violations that cause significant harm in the form of financial hardship, hazardous workplaces and unfair treatment of workers.

In Section V(6) we strongly support the requirement to assess where proactive enforcement is most needed and the target of at least 40% of enforcement resources to be used on proactive enforcement. Creating a requirement to engage in strategic enforcement will help serve workers in high violation industries who are unwilling or unable to complain.³ We understand this to be a target, and thus it would not serve as a set requirement that would constrain the department if there was a time when there is a flood of complaints or if there are simply other ways of doing strategic enforcement that are worth engaging in in addition to proactive enforcement.

Current penalties should be strengthened. A \$9.61 fine for withholding a working person’s pay is not an effective deterrent. Remedies should reflect the hardship that workers face when they are exploited through this horrible practice of withholding pay. Passing these updated rules will allow for better protections for workers.