

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Regarding Pay Equality

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

Sec. 1. 5 MRSA §4572, sub-§1, ¶A, as amended by PL 2005, c. 10, §11, is further amended to read:

A. For any employer to fail or refuse to hire or otherwise discriminate against any applicant for employment because of race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of the applicant's previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions taken by the applicant that are protected under Title 26, chapter 7, subchapter 5-B; or, because of those reasons, to discharge an employee or discriminate with respect to hire, tenure, promotion, transfer, compensation, terms, conditions or privileges of employment or any other matter directly or indirectly related to employment; or, in recruiting of individuals for employment or in hiring them, to utilize any employment agency that the employer knows or has reasonable cause to know discriminates against individuals because of their race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, because of their previous assertion of a claim or right under former Title 39 or Title 39-A or because of previous actions that are protected under Title 26, chapter 7, subchapter 5-B;.

(1) This paragraph does not apply to discrimination governed by Title 39-A, section 353; and

(2) Evidence of discrimination with respect to compensation includes, but is not limited to:

(a) An employer, either directly or indirectly through an employment agency working on behalf of the employer, inquiring about or seeking the wage history of a prospective employee from the prospective employee or a current or former employer or requiring that a prospective employee's prior wage history meet certain criteria unless an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee, after which the employer or employment agency may inquire about or confirm the prospective employee's wage history. If a prospective employee has voluntarily disclosed wage history information, without prompting by the employer or employment agency, the employer or employment agency may seek to confirm or permit a prospective employee to confirm such information prior to an offer of employment; or

(b) An employer prohibiting an employee from disclosing the employee's own wages or from inquiring about or disclosing another employee's wages;

Sec. 2. 26 MRSA §628, first ¶, as amended by PL 2009, c. 29, §1, is further amended to read:

An employer may not discriminate between employees in the same establishment on the basis of sex by paying wages to any employee in any occupation in this State at a rate less than the rate at which the employer pays any employee of the opposite sex for comparable work on jobs that have comparable requirements relating to skill, effort and responsibility. Differentials that are paid pursuant to established seniority systems or merit increase systems or difference in the shift or time of the day worked that do not discriminate on the basis of sex are not within this prohibition. An employer may not discharge or discriminate against any employee by reason of any action taken by such employee to invoke or assist in any manner the enforcement of this section. An employer may not prohibit an employee from disclosing the employee's own wages or from inquiring about or disclosing another employee's wages ~~if the purpose of the disclosure or inquiry is to enforce the rights granted by this section~~. Nothing in this section creates an obligation to disclose wages.

SUMMARY

This bill amends the Maine Human Rights Act to provide that evidence of discrimination with respect to compensation includes an employer seeking information about a prospective employee's prior wage history before an offer of employment, including all compensation, to the prospective employee has been made. It provides that this discrimination is also evidenced by an employer requiring that a prospective employee's prior compensation history meet certain criteria. The bill broadens a provision in the current equal pay law to prohibit an employer from preventing employees from discussing or disclosing other employees' wages and makes the practice a violation of the Maine Human Rights Act as well.