

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

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

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

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

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

SUMMARY

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