



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 733

H.P. 538

House of Representatives, February 11, 2019

An Act To Promote Keeping Workers in Maine

Reference to the Committee on Labor and Housing suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative SCHNECK of Bangor.
Cosponsored by Senator BELLOWS of Kennebec and
Representatives: CARDONE of Bangor, CUDDY of Winterport, KORNFELD of Bangor,
MARTIN of Sinclair, MASTRACCIO of Sanford, McCREA of Fort Fairfield, Senators:
CHIPMAN of Cumberland, DIAMOND of Cumberland.

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

2 **Sec. 1. 26 MRSA c. 7, sub-c. 13** is enacted to read:

3 **SUBCHAPTER 13**

4 **NONCOMPETE AGREEMENTS AND RESTRICTIVE EMPLOYMENT**
5 **AGREEMENTS**

6 **§880. Noncompete agreements**

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

9 A. "Federal poverty level" means the nonfarm income official poverty line for an
10 individual, as defined by the federal Office of Management and Budget and revised
11 annually in accordance with the Omnibus Budget Reconciliation Act of 1981, Section
12 673(2).

13 B. "Noncompete agreement" means a contract or contract provision that prohibits an
14 employee or prospective employee from working in the same or a similar profession
15 or in a specified geographic area for a certain period of time following termination of
16 employment.

17 **2. Prohibited for certain workers.** An employer may not require or permit an
18 employee earning wages at or below 300% of the federal poverty level to enter into a
19 noncompete agreement with the employer.

20 **3. Disclosure; notice.** An employer shall disclose in any advertisement for a
21 position of employment with the employer that will require the acceptance of a
22 noncompete agreement a statement that a noncompete agreement will be required.

23 An employer shall notify an employee or prospective employee of a noncompete
24 agreement requirement and provide a copy of the noncompete agreement not less than 3
25 business days before the employer requires the agreement to be signed to allow time for
26 the employee or prospective employee to review the agreement and negotiate the terms of
27 the agreement or employment with the employer if the employee or prospective employee
28 wishes to do so.

29 **4. Effective date of a noncompete agreement.** Except for a noncompete agreement
30 between an employer and an allopathic physician or an osteopathic physician licensed
31 under Title 32, chapter 48 or chapter 36, respectively, the terms of a noncompete
32 agreement do not take effect until after one year of the employee's employment with the
33 employer or a period of 6 months from the date the agreement was signed, whichever is
34 later.

35 **5. Penalty; enforcement.** A person that violates subsection 2 or 3 commits a civil
36 violation for which a fine of not less than \$5,000 may be adjudged. The Department of
37 Labor shall enforce this section.

1 for a position of employment, the employer must disclose that requirement in any
2 advertisement for that position, and an employer must provide an employee or
3 prospective employee with a copy of a noncompete agreement at least 3 business days
4 before requiring that employee or prospective employee to sign the agreement. An
5 employer that violates this law commits a civil violation for which a fine of not less than
6 \$5,000 may be adjudged. The Department of Labor is responsible for enforcement of the
7 law. The terms of a noncompete agreement, except for a noncompete agreement with a
8 physician, are not in effect until after an employee has been employed with the employer
9 for at least one year or a period of 6 months from the date the agreement was signed,
10 whichever is later.

11 The bill also prohibits a restrictive employment agreement between 2 or more
12 employers that prohibits or restricts one employer from soliciting or hiring another
13 employer's employees or former employees.