



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1477

H.P. 1016

House of Representatives, April 18, 2017

An Act To Coordinate and Enforce Existing Workplace Training Requirements

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative AUSTIN of Gray.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: BATES of Westbrook, LOCKMAN of Amherst, STETKIS of Canaan,
VACHON of Scarborough, Senator: LANGLEY of Hancock.

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

2 **Sec. 1. 26 MRSA §806, sub-§1-A** is enacted to read:

3 **1-A. Department.** "Department" means the Department of Labor.

4 **Sec. 2. 26 MRSA §807**, as enacted by PL 1991, c. 474, §2, is amended to read:

5 **§807. Requirements**

6 In addition to employer responsibilities set forth in rules adopted under Title 5,
7 section 4572, all employers shall act to ensure a workplace free of sexual harassment by
8 implementing the following minimum requirements.

9 **1. Workplace posting.** An employer shall post in a prominent and accessible
10 location in the workplace a poster providing, at a minimum, the following information:
11 the illegality of sexual harassment; a description of sexual harassment, utilizing
12 examples; the complaint process available through the commission; and directions on
13 how to contact the commission. The text of this poster may meet but may not exceed 6th-
14 grade literacy standards. ~~Upon request, the~~ The commission shall provide this poster to
15 employers ~~at a price that reflects the cost as determined by the commission~~ at no charge.
16 This poster must also be available on the department's publicly accessible website and
17 may be reproduced.

18 **2. Employee notification.** Employers shall provide annually all employees with
19 individual written notice that includes at a minimum the following information: the
20 illegality of sexual harassment; the definition of sexual harassment under state law; a
21 description of sexual harassment, utilizing examples; the internal complaint process
22 available to the employee; the legal recourse and complaint process available through the
23 commission; directions on how to contact the commission; and the protection against
24 retaliation as provided pursuant to Title 5, section 4553, subsection 10, paragraph D.
25 This notice must be initially provided within 90 days after the effective date of this
26 subchapter. The notice must be delivered in a manner to ensure notice to all employees
27 without exception, such as including the notice with an employee's pay.

28 **3. Education and training.** In workplaces with 15 or more employees, employers
29 shall conduct an education and training program for all new employees within one year of
30 commencement of employment ~~that includes, at a minimum, the following information:~~
31 Training provided under this subsection must include the illegality of sexual harassment;
32 the definition of sexual harassment under state and federal laws and federal regulations,
33 including the Maine Human Rights Act and the Civil Rights Act of 1964, 42 United
34 States Code, Title VII, Sections 2000e to 2000e-17; a description of sexual harassment,
35 utilizing examples; the internal complaint process available to the employee; the legal
36 recourse and complaint process available through the commission; directions on how to
37 contact the commission; and the protection against retaliation as provided under Title 5,
38 section 4553, subsection 10, paragraph D. Employers shall conduct additional training
39 for supervisory and managerial employees within one year of commencement of
40 employment that includes, at a minimum, the specific responsibilities of supervisory and

1 managerial employees and methods that these employees must take to ensure immediate
2 and appropriate corrective action in addressing sexual harassment complaints.

3 Education and training programs conducted under this subsection by the State, a county
4 or a municipality for its public safety personnel, including, but not limited to, law
5 enforcement personnel, corrections personnel and firefighters, may be used to meet
6 training and education requirements mandated by any other law, rule or other official
7 requirement.

8 **4. Compliance assistance.** The commission shall provide employers with a training
9 guide to assist them in meeting the requirements under this subchapter. The guide must
10 be made available on the publicly accessible websites of both the commission and the
11 department. The commission shall update the training guide annually or when regulatory
12 changes are made. The guide must address the required elements specified in subsection
13 3 and include relevant examples from actual commission cases.

14 **5. Enforcement.** The department shall enforce the notification requirement under
15 this section and, upon inspection or complaint, shall ensure that employers have provided
16 the training as required by subsection 3. If the department has determined that an
17 employer has complied with the provisions of this subchapter, that determination and all
18 completed enforcement actions are considered final and may not be challenged by the
19 commission.

20 The commission may request department enforcement records related to a complaint filed
21 with the commission when the complaint is related to this subsection. Such records are
22 subject to section 3.

23 **6. Penalties for violations.** An employer who violates this section may be assessed
24 a fine by the department in accordance with this subsection.

25 A. An employer who violates the workplace posting requirement in subsection 1
26 may be assessed:

27 (1) For the first violation, a fine of up to \$25 per day, not to exceed \$1,000;

28 (2) For a 2nd violation occurring within 3 years of a prior violation, a fine of not
29 less than \$25 per day up to \$50 per day, not to exceed \$2,500; and

30 (3) For a 3rd or subsequent violation occurring within 3 years of 2 or more prior
31 violations, a fine of not less than \$25 per day up to \$100 per day, not to exceed
32 \$5,000.

33 B. An employer who violates the notification, education or training requirements set
34 forth in subsection 2 or 3 may be assessed:

35 (1) For the first violation, a fine of \$1,000;

36 (2) For a 2nd violation, a fine of \$2,500; and

37 (3) For a 3rd or subsequent violation, a fine of \$5,000.

SUMMARY

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This bill amends the law to specify the roles and responsibilities of the Department of Labor and the Maine Human Rights Commission in the development, execution and enforcement of the existing workplace training requirements for sexual harassment. It adds penalties for employers who have not met the posting, notification, education and training requirements and requires that the content of the training be developed and updated annually by the Maine Human Rights Commission.