



127th MAINE LEGISLATURE

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Legislative Document

No. 1200

S.P. 427

In Senate, April 2, 2015

**An Act To Create a Civil Cause of Action for Intentional
Interference with Business Operations**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BURNS of Washington.

Cosponsored by Senators: CUSHING of Penobscot, DAVIS of Piscataquis, ROSEN of Hancock, President THIBODEAU of Waldo, Representatives: FOWLE of Vassalboro, SHAW of Standish.

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

2 **Sec. 1. 14 MRSA c. 759** is enacted to read:

3 **CHAPTER 759**

4 **CIVIL RECOVERY FOR INTENTIONAL INTERFERENCE WITH BUSINESS**
5 **OPERATIONS**

6 **§8801. Short title**

7 This chapter may be known and cited as "the Maine Civil Recovery for Intentional
8 Interference with Business Operations Act."

9 **§8802. Civil recovery**

10 **1. "Business operations" defined.** As used in this chapter, "business operations"
11 means an activity engaged in with the object of gain, benefit or advantage, either direct or
12 indirect, by a private entity.

13 **2. Application.** This chapter applies to:

14 A. Business operations in a public or private place, including, but not limited to,
15 private land, public and private ways as defined in Title 29-A, section 101 and
16 railroad rights-of-way as defined in Title 12, section 9405-A, subsection 1, paragraph
17 J; and

18 B. Activities dealing with critical infrastructure as defined in Title 17-A, section 2,
19 subsection 6-A and within energy infrastructure corridors as defined in Title 35-A,
20 section 122, subsection 1, paragraph C.

21 **3. Liability.** A person who intentionally commits an act that hinders, impairs or
22 obstructs or attempts to hinder, impair or obstruct the performance of the business
23 operations of a private entity is liable to the private entity in accordance with the
24 provisions of this chapter. An organization that promotes, advocates for or directs an
25 individual to act as described in this chapter is liable to the private entity in the same
26 manner as the individual committing the act.

27 **4. No limitation.** The provisions of this chapter may not be construed to prohibit or
28 limit any other cause of action that a private entity may have against an individual or
29 organization found liable under this chapter.

30 **5. Damages recoverable.** An individual or organization found civilly liable to a
31 private entity under the provisions of this chapter may be awarded damages including:

32 A. Actual damages. Actual damages include economic losses and property damage,
33 when proven;

34 B. A civil penalty equal to \$50,000 or 3 times total damages, costs and fees,
35 whichever is greater; and

36 C. Costs and fees, including reasonable attorney's fees.

1 6. Written demand. The fact that an action may be brought against an individual or
2 organization as provided in this chapter does not limit the right of a private entity to make
3 a written demand that an individual or organization liable for damages and penalties
4 under this chapter remit the damages and penalties prior to the commencement of any
5 legal action.

6 A. If an individual or organization to which demand is made under this subsection
7 complies with the demand, that individual or organization incurs no further civil
8 liability for that specific act of interference.

9 B. A demand under this subsection must be accompanied by a copy of this chapter.

10 7. Criminal prosecution. A criminal prosecution under Title 17-A is not a
11 prerequisite to an action under this chapter, and criminal prosecution does not bar civil
12 action. An action under this chapter does not bar a criminal prosecution under Title 17-A.

13 8. Failure to prosecute. If a private entity files suit to recover damages and
14 penalties pursuant to this chapter and the private entity fails to appear at a hearing in the
15 proceedings without being excused by the court, the court shall dismiss the suit without
16 prejudice and award costs to the defendant.

17 9. Fraudulent prosecution. A person who knowingly uses provisions of this
18 chapter to demand or extract money from an individual or organization that is not legally
19 obligated to pay damages commits a Class E crime.

20 SUMMARY

21 This bill creates a civil cause of action for intentional interference with business
22 operations. "Business operations" is defined to mean an activity engaged in with the
23 object of gain, benefit or advantage, either direct or indirect, by a private entity. The bill
24 provides that:

25 1. An individual is liable to a private entity for damages if the individual commits an
26 act that hinders, impairs or obstructs or attempts to hinder, impair or obstruct the
27 performance of business operations by the private entity;

28 2. An organization that promotes, advocates for or directs an individual to engage in
29 the acts described in the bill is liable to the private entity in the same manner as the
30 individual committing the act;

31 3. The private entity may recover damages by filing an action in court and may be
32 awarded actual damages, a civil penalty and costs and fees, including reasonable
33 attorney's fees; and

34 4. A person who knowingly uses the provisions in this bill to demand or extract
35 money from an individual or organization that is not legally obligated to pay damages
36 commits a Class E crime.