



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1900

S.P. 772

In Senate, May 9, 2023

**An Act to Establish a Tax Credit for Employers Who Employ
Persons Recovering from Substance Use Disorder**

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Senator POULIOT of Kennebec and
Senators: BAILEY of York, BENNETT of Oxford, MOORE of Washington, TIPPING of
Penobscot, Representative: BOYER of Poland.

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

2 **Sec. 1. 5 MRSA §20005, sub-§21**, as amended by PL 2019, c. 524, §11, is further
3 amended to read:

4 **21. List of banned performance-enhancing substances.** Develop and maintain a list
5 of banned performance-enhancing substances in accordance with Title 20-A, section 6621;
6 ~~and~~

7 **Sec. 2. 5 MRSA §20005, sub-§22**, as enacted by PL 2019, c. 524, §12, is amended
8 to read:

9 **22. Certification of recovery residences.** Establish by rule criteria for the
10 certification of recovery residences. The criteria for the certification of recovery residences
11 must be based on criteria for recovery residences developed by a nationally recognized
12 organization that supports persons recovering from substance use disorder. Certification
13 of a recovery residence pursuant to this subsection is voluntary. Rules adopted pursuant to
14 this subsection are routine technical rules as defined in chapter 375, subchapter 2-A; and

15 **Sec. 3. 5 MRSA §20005, sub-§23** is enacted to read:

16 **23. Certification of persons recovering from substance use disorder and eligibility**
17 **of employers.** Establish by rule a certification process for persons recovering from
18 substance use disorder for purposes of the tax credit for employment of persons recovering
19 from substance use disorder available pursuant to Title 36, section 5217-G, referred to in
20 this subsection as "the tax credit." The rule must comply with the requirements of this
21 subsection.

22 A. The certification process must establish eligibility requirements for employers
23 seeking the tax credit. The rule must recognize participation in or successful
24 completion of substance use disorder treatment programs licensed or certified by the
25 department, including those operated by approved treatment facilities and community
26 intervention programs, or maintained by other government entities of the State,
27 including the Department of Corrections.

28 B. The rule must include an application and certification process for employers of
29 persons recovering from substance use disorder seeking the tax credit. The rule must
30 provide that a certificate of eligibility may be issued to an employer only after the
31 commissioner has determined that the employer:

32 (1) Provides a recovery-supportive environment for its employees as evidenced by
33 a formal working relationship with a local recovery or treatment provider certified
34 by the department to provide support for employers, including any necessary
35 assistance in the hiring of eligible persons recovering from substance use disorder
36 and training for employers or supervisors; and

37 (2) Fulfills the eligibility criteria established by the department pursuant to this
38 subsection for the recovery tax credit established in Title 36, section 5217-G.

39 Rules adopted pursuant to this subsection are routine technical rules pursuant to chapter
40 375, subchapter 2-A.

41 **Sec. 4. 36 MRSA §191, sub-§2, ¶SSS** is enacted to read:

1 SSS. The disclosure of information to the Department of Health and Human Services,
2 Office of Behavioral Health necessary for the administration of the tax credit for
3 employment of persons in recovery from substance use disorder pursuant to section
4 5217-G.

5 **Sec. 5. 36 MRSA §5217-G** is enacted to read:

6 **§5217-G. Tax credit for employment of persons in recovery**

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

9 A. "Certificate of eligibility" means a certificate issued to an employer by the
10 Department of Health and Human Services pursuant to Title 5, section 20005,
11 subsection 23.

12 B. "Certified employer" means an employer that has received a certificate of tax credit
13 from the assessor pursuant to subsection 4.

14 C. "Eligible employee" means an individual with substance use disorder who:

15 (1) Is in a state of wellness;

16 (2) Is participating in or has successfully completed a substance use disorder
17 treatment program certified by the Department of Health and Human Services
18 pursuant to Title 5, section 20005, subsection 23; and

19 (3) Has worked in this State for a minimum of 500 hours for a certified employer.

20 D. "Substance use disorder" means a diagnosis related to alcohol or drug use covered
21 by Title 5, chapter 521.

22 **2. Credit.** For tax years beginning on or after January 1, 2024, a certified employer is
23 allowed a credit against the tax imposed by this Part in accordance with the provisions of
24 this section. The maximum amount of the credit is \$2,000 per eligible employee, as
25 determined by the assessor pursuant to subsection 4 and as limited by this subsection and
26 subsection 5.

27 A. A certified employer is allowed a tax credit equal to the product of \$1 and the
28 number of hours worked by each eligible employee during that eligible employee's
29 period of employment, up to a maximum of 2,000 hours.

30 B. A certified employer may claim a tax credit for each eligible employee beginning
31 on the day the employee reaches 500 hours worked for that certified employer and
32 ending on December 31st of the immediately succeeding calendar year or the last day
33 of the employee's employment by the certified employer, whichever comes first.

34 C. If an eligible employee does not work 2,000 hours by December 31st, a certified
35 employer may compute the credit for that tax year based on the number of hours
36 worked by that eligible employee by December 31st of that tax year or may elect to
37 include the eligible employee in the computation of the tax credit for the immediately
38 succeeding tax year.

39 D. In no event may an eligible employee generate a tax credit for hours worked in
40 excess of 2,000 hours.

1 E. A certified employer may claim a tax credit only once with respect to any eligible
2 employee and may not aggregate the hours of 2 or more employees to reach the
3 minimum number of hours.

4 **3. Application process.** To be eligible for the tax credit under this section, an
5 employer must:

6 A. Obtain a certificate of eligibility from the Department of Health and Human
7 Services;

8 B. Apply no later than January 15th annually to the assessor, on a form provided by
9 the assessor, to be a certified employer and provide the certificate of eligibility obtained
10 pursuant to paragraph A and all information, including the number of hours worked by
11 any eligible employee, required by the assessor to compute an actual amount of credit
12 allowed; and

13 C. Agree to allow the assessor to share the employer's tax information with the
14 Department of Health and Human Services, Office of Behavioral Health. Information
15 shared pursuant to this paragraph is confidential and not subject to the Freedom of
16 Access Act.

17 **4. Determination of amount of credit.** The assessor shall review an application
18 received pursuant to subsection 3 and, if the assessor finds the application sufficient, shall
19 issue a certificate of tax credit by March 31st. The certificate must include, but is not
20 limited to:

21 A. The name and employer identification number of the certified employer;

22 B. The amount of credit that the certified employer may claim; and

23 C. Any other information the assessor determines is necessary.

24 In determining the amount of tax credit that a certified employer may claim, the assessor
25 shall review all claims submitted for the tax credit under this section by all certified
26 employers and, to the extent that the total amount claimed by certified employers exceeds
27 the amount allocated for the tax credit in that tax year pursuant to subsection 5, paragraph
28 A, shall issue tax credits on a pro rata basis corresponding to each certified employer's share
29 of the total claimed amount.

30 **5. Limitations.** The tax credit under this section for any tax year is limited as follows.

31 A. The total tax credit available is limited to \$2,000,000 per tax year.

32 B. The amount of the tax credit that may be issued to a certified employer is limited
33 to the tax due.

34 C. Any unused tax credit may be carried over to the following year or years for a
35 period not to exceed 7 years, including the year the tax credit was first taken, and may
36 be deducted from the certified employer's tax for that year or years, subject to the
37 limitations of this subsection.

38 D. There is no carry-back to prior years of the amount of tax credit allowable.

39 **6. Relapse by eligible employee.** An eligible employee who relapses in treatment for
40 substance use disorder is not immediately disqualified from being an eligible employee if
41 the individual shows a continued commitment to recovery that aligns with the individual's
42 relapse prevention plan, discharge plan or recovery plan.

1 **SUMMARY**

2 This bill provides for a tax credit for employers who employ persons recovering from
3 substance use disorder who are completing or have successfully completed a substance use
4 disorder treatment program certified by the Department of Health and Human Services.
5 The Department of Health and Human Services is required to establish a certification
6 process for employers. A certified employer, in order to receive the tax credit, is required
7 to apply to the State Tax Assessor for the tax credit.

8 The tax credit is available with respect to an employee who has been employed with
9 the employer for at least 500 hours. The credit is calculated by multiplying the number of
10 hours, above the 500 hours from date of hire, worked by the employee by \$1, except that
11 the credit may not exceed \$2,000 for each eligible employee. The credit may be claimed
12 only once per employee. The credit is further limited by a total allocation of credit of
13 \$2,000,000 per year.