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Date: (Filing No. H- )

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**STATE OF MAINE**  
**HOUSE OF REPRESENTATIVES**  
**130TH LEGISLATURE**  
**SECOND REGULAR SESSION**

HOUSE AMENDMENT “ ” to H.P. 711, L.D. 965, “An Act Concerning Nondisclosure Agreements in Employment”

Amend the bill in section 1 in §599-C by striking out all of subsection 1 (page 1, lines 4 to 7 in L.D.) and inserting the following:

**1. Employer defined.** As used in this section, unless the context otherwise indicates, "employer" has the same meaning as in section 615, subsection 3.'

Amend the bill in section 1 in §599-C in subsection 2 in the last 2 lines (page 1, lines 10 and 11 in L.D.) by striking out the following: "discrimination, retaliation or harassment" and inserting the following: 'unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3,'

Amend the bill in section 1 in §599-C by striking out all of subsection 4 (page 1, lines 20 to 34 in L.D.) and inserting the following:

**4. Settlement, separation or severance agreement requirements.** A settlement, separation or severance agreement may include a provision that prevents the subsequent disclosure of factual information relating to a claim of unlawful employment discrimination, as defined and limited by Title 5, chapter 337, subchapter 3, only if:

A. The agreement expressly provides for separate monetary consideration for the provision in addition to anything of value to which the employee, intern or applicant for employment is already entitled;

B. The provision applies to all parties to the agreement to the extent otherwise permitted by law;

C. The agreement clearly states that the individual retains the right to report, testify or provide evidence to federal and state agencies that enforce employment or discrimination laws and to testify and provide evidence in federal and state court proceedings; and

D. The employer retains a copy of the agreement for 6 years following the execution of the agreement or the end of employment, whichever is later. Records required to be kept by this paragraph must be accessible to any representative of the Department of Labor at any reasonable hour.

***HOUSE AMENDMENT***

1 Nothing in this section may be construed as limiting the use of nondisclosure agreements  
2 to protect the confidentiality of proprietary information, trade secrets or information that is  
3 otherwise confidential by law, rule or regulation.'

4 Amend the bill in section 1 in §599-C by striking out all of subsection 5 (page 1, line  
5 35 in L.D.) and inserting the following:

6 **'5. Enforcement.** The Department of Labor shall enforce this section. In addition,  
7 the Attorney General may bring an action under this section to impose a fine or to enjoin  
8 further violation. An employer that intentionally violates this section commits a civil  
9 violation for which a fine of up to \$1,000 may be adjudged.'

10 Amend the bill in section 1 in §599-C by striking out all of subsection 6 (page 1, lines  
11 36 to 40 and page 2, lines 1 to 5 in L.D.).

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
13 number to read consecutively.

14 **SUMMARY**

15 This amendment replaces the definition of "employer" in the bill. The amendment  
16 clarifies that the provisions of the bill apply to unlawful discrimination, imposes certain  
17 requirements regarding settlement, separation or severance agreement nondisclosure  
18 provisions, adds a statement regarding the construction of the provisions of the bill and  
19 allows the Attorney General to bring an action to impose a fine or seek an injunction for a  
20 violation of the provisions of the bill.

21 **SPONSORED BY:** \_\_\_\_\_

22 **(Representative HARNETT, T.)**

23 **TOWN: Gardiner**