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Date: (Filing No. H-)

LABOR AND HOUSING

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 694, L.D. 938, “An Act To Ensure Maine Workers' Right To Request a Schedule Change at Their Places of Employment”

Amend the bill by striking out the title and substituting the following:

'An Act To Ensure Maine Workers' Right To Request Flexible Working Arrangements'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 26 MRSA §600-A is enacted to read:

§600-A. Flexible working arrangements

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

A. "Flexible working arrangement" means temporary changes in the employee's regular working arrangements that last up to one calendar year, including:

- (1) Changes in the number of days or hours worked;**
- (2) Changes in the time the employee arrives to or departs from work;**
- (3) Working from home; and**
- (4) Job-sharing.**

"Flexible working arrangement" does not include routine scheduling of shifts, vacation or other employee leave.

B. "Inconsistent with business operations" includes, with regard to a flexible working arrangement, the following conditions:

- (1) The burden of additional costs on an employer;**
- (2) A detrimental effect, unrelated to discrimination or other unlawful employment practices, on aggregate employee morale;**

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- 1 (3) A detrimental effect on the ability of an employer to meet consumer demand;
- 2 (4) An inability to reorganize work among existing staff;
- 3 (5) An inability to recruit additional staff;
- 4 (6) A detrimental impact on business quality or business performance;
- 5 (7) An insufficiency of work during the periods the employee proposes to work;
- 6 and
- 7 (8) Planned structural changes to the business.

8 **2. Right to request a flexible working arrangement.** An employee may request a
 9 flexible working arrangement up to twice per calendar year. The employer shall consider a
 10 request in accordance with subsection 3 twice per calendar year. A flexible working
 11 arrangement under this section must meet the needs of the employer and employee.

12 **3. Form of request and response.** The employer shall discuss in good faith the request
 13 for a flexible working arrangement with the employee. The employer and employee may
 14 propose alternative arrangements during the discussion. The employer shall consider the
 15 employee's request for a flexible working arrangement and whether the request can be
 16 granted in a manner that is not inconsistent with business operations or the employer's legal
 17 or contractual obligations. The employer is not required to grant the request. The employer
 18 shall notify the employee of its decision regarding the request. If the request was submitted
 19 in writing, the employer shall state any complete or partial denial of the request in writing.

20 **4. Other rights not diminished.** This section does not diminish any rights of any
 21 employee under this chapter or pursuant to a collective bargaining agreement. An employer
 22 may institute a flexible working arrangement policy that is more flexible than is provided
 23 by this section. This section does not affect any legal rights an employer or employee may
 24 have under applicable law to create, modify or terminate a flexible working arrangement.

25 **5. Retaliation prohibited.** An employer may not retaliate against an employee
 26 exercising a right under this section. An employer may not discharge an employee from
 27 employment or discriminate against an employee because that employee asserted or
 28 attempted to assert the right to make a request under this section.

29 **6. Enforcement.** An employer that violates this section commits a civil violation for
 30 which a fine of not less than \$100 and not more than \$500 per violation may be adjudged.
 31 The Department of Labor shall enforce this section.

32 **Sec. 2. Appropriations and allocations.** The following appropriations and
 33 allocations are made.

34 **LABOR, DEPARTMENT OF**
 35 **Regulation and Enforcement 0159**

36 Initiative: Provides ongoing funds for one Labor and Safety Inspector position and related
 37 All Other costs associated with the enforcement of an employee's right to request a flexible
 38 working arrangement from an employer.

39 GENERAL FUND	2021-22	2022-23
40 POSITIONS - LEGISLATIVE COUNT	1.000	1.000
41 Personal Services	\$63,597	\$87,667
42 All Other	\$5,289	\$5,289

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GENERAL FUND TOTAL	<u>\$68,886</u>	<u>\$92,956</u>
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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment replaces the bill. This amendment allows employees to request a flexible working arrangement from an employer up to twice per year. An employer must consider a request by an employee for a flexible working arrangement twice per year and discuss the flexible working arrangement with the employee in good faith. The employee and employer may discuss alternative arrangements to the flexible working arrangement. The employer is not required to grant the employee’s request for a flexible working arrangement. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)