

Date: (Filing No. S- )

LABOR AND HOUSING

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE
SENATE
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to S.P. 473, L.D. 1524, Bill, "An Act To Prevent Wage Theft and Promote Employer Accountability"

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

'Sec. 1. 26 MRSA §637 is enacted to read:

§637. Wage theft remedies

1. Wage theft; defined. For the purposes of this section, "wage theft" means a violation of section 621-A, 622, 623, 626, 629, 629-A or 664.

2. Injunction. In addition to other remedies allowed by this chapter, the Department of Labor or any person or persons injured by an unlawful wage payment practice or policy that causes direct harm to workers may bring an action for injunctive relief to enjoin further wage theft. If a party seeking an injunction prevails, the employer is liable to pay the cost of suit, including a reasonable attorney's fee.

3. Issuance of a cease operations order. The Commissioner of Labor or the commissioner's designee may order an employer to cease its business operations if the commissioner or the commissioner's designee determines that the employer has committed wage theft, the commissioner or the commissioner's designee has previously determined the employer's practice or policy resulted in wage theft on more than one occasion or within the last 12 months and:

A. The practice or policy resulting in the wage theft affects 10 or more employees; or

B. The wage theft is equal to or greater than twice an employee's average weekly wage.

The commissioner or the commissioner's designee shall provide the employer with notice and an opportunity to be heard 3 business days before the effective date of an order issued pursuant to this subsection. The issuance of a cease operations order constitutes final agency action. The commissioner or the commissioner's designee shall issue the cease operations order as narrowly as is determined necessary. Any person who is aggrieved by

COMMITTEE AMENDMENT

1 the imposition of a cease operations order has 10 days from the date of its service to make  
2 a request to the commissioner or the commissioner's designee for a hearing. The hearing  
3 must be held within 7 business days of the request. The hearing officer shall issue a  
4 decision within 5 business days of the hearing.

5 If an employer refuses to obey an order to cease operations, that order may be enforced in  
6 Superior Court.

7 **4. Stay of cease operations order.** The Commissioner of Labor or the  
8 commissioner's designee shall stay the issuance of a cease operations order under  
9 subsection 3 if the employer provides evidence acceptable to the commissioner or the  
10 commissioner's designee that the employer has paid the employee or employees for the  
11 amount of unpaid wages and benefits owed and has implemented wage payment practices  
12 and policies that comply with this chapter.

13 **5. Rules.** The Commissioner of Labor shall adopt rules to implement this section.  
14 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,  
15 chapter 375, subchapter 2-A.'

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

18 **SUMMARY**

19 This amendment replaces the bill. Like the bill, it creates additional remedies for  
20 wage theft, including injunctive relief and cease operations orders. These remedies are in  
21 addition to any existing penalties. Like the bill, it defines wage theft as a violation of  
22 specific statutes that include the requirements of timely and full payment of wages,  
23 payment of wages upon cessation of employment, payments defined as "unfair  
24 agreements" and fringe benefits, but adds violation of statutes related to minimum wage  
25 requirements to the definition.

26 It changes the terminology in the bill from "stop-work order" to "cease operations  
27 order" and provides more details on the process and requirements related to cease  
28 operations orders including thresholds for the issuance of a cease operations order, timing  
29 to be afforded to an employer being issued a cease operations order and requirements for  
30 the Commissioner of Labor or the commissioner's designee to stay a cease operations  
31 order. It also requires the commissioner to adopt routine technical rules.