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Date: (Filing No. H-)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 350, L.D. 487, Bill, “An Act To Promote Keeping Workers in Maine”

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

'Sec. 1. 26 MRSA c. 7, sub-c. 12 is enacted to read:

SUBCHAPTER 12

NONCOMPETE AGREEMENTS

§879. Noncompete agreements

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

A. "Federal poverty level" means the nonfarm income official poverty line for an individual, as defined by the federal Office of Management and Budget and revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, subsection 2.

B. "Noncompete agreement" means a contract or contract provision that prohibits an employee or prospective employee from working in the same or similar profession or in a specified geographic area for a certain period of time following termination of employment.

2. Prohibited for certain workers. An employer may not require or permit an employee earning wages at or below 300% of the federal poverty level to enter into a noncompete agreement with the employer.

3. Disclosure; notice. An employer shall disclose in any advertisement for a position of employment with the employer that will require the acceptance of a noncompete agreement a statement that a noncompete agreement will be required.

COMMITTEE AMENDMENT

1 An employer shall notify an employee or prospective employee of a noncompete
2 agreement requirement and provide a copy of the noncompete agreement not less than 3
3 business days before the employer requires the agreement to be signed to allow time for
4 the employee or prospective employee to review the agreement and negotiate the terms of
5 the agreement or employment with the employer if the employee or prospective employee
6 wishes to do so.

7 **4. Effective date of a noncompete agreement.** Except for a noncompete agreement
8 between an employer and an allopathic physician or an osteopathic physician licensed
9 under Title 32, chapter 48 or chapter 36, respectively, the terms of a noncompete
10 agreement do not take effect until after one year of the employee's employment with the
11 employer or a period of 6 months from the date the agreement was signed, whichever is
12 later.

13 **5. Penalty; enforcement.** A person that violates subsection 2 or 3 commits a civil
14 violation for which a fine of not less than \$5,000 may be adjudged. The Department of
15 Labor shall enforce this subchapter.

16 **6. Application.** This subchapter applies to all noncompete agreements entered into
17 or renewed after the effective date of this subchapter.

18 **Sec. 2. Appropriations and allocations.** The following appropriations and
19 allocations are made.

20 **LABOR, DEPARTMENT OF**

21 **Regulation and Enforcement 0159**

22 Initiative: Provides ongoing funds for one half-time Labor and Safety Inspector position
23 and related All Other costs associated with enforcing the laws related to noncompete
24 agreements.

25	GENERAL FUND	2017-18	2018-19
26	POSITIONS - LEGISLATIVE COUNT	0.500	0.500
27	Personal Services	\$25,869	\$34,492
28	All Other	\$6,732	\$7,482
29			
30	GENERAL FUND TOTAL	\$32,601	\$41,974
31			

32 **SUMMARY**

33 This amendment replaces the bill, which is a concept draft, and prohibits an employer
34 from requiring or entering into a so-called noncompete agreement with an employee
35 earning wages that are at or below 300% of the federal poverty level. A noncompete
36 agreement is defined as a contract or contract provision that prohibits an employee or
37 prospective employee from working in the same or similar profession or in a specified
38 geographic area for a certain period of time following termination of employment. If an
39 employer requires a noncompete agreement for a position of employment, the employer
40 must disclose that requirement in any advertisement for that position, and an employer
41 must provide an employee or prospective employee with a copy of a noncompete

1 agreement at least 3 business days before requiring that employee or prospective
2 employee to sign the agreement. The terms of a noncompete agreement, except for a
3 noncompete agreement with a physician, are not in effect until after an employee has
4 been employed with the employer for at least one year or a period of 6 months has
5 passed, whichever is later. An employer that violates this law commits a civil violation
6 for which a fine of not less than \$5,000 may be adjudged. The Department of Labor is
7 responsible for enforcement of the law. The amendment also adds an appropriations and
8 allocations.

9 **FISCAL NOTE REQUIRED**

10 **(See attached)**