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Date: (Filing No. S-)

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STATE OF MAINE
SENATE
130TH LEGISLATURE
FIRST SPECIAL SESSION

SENATE AMENDMENT “ ” to S.P. 525, L.D. 1711, “An Act To Enhance Enforcement of Employment Laws”

Amend the bill in section 1 in subsection 3 in the 2nd line (page 1, line 5 in L.D.) by inserting after the following: "provided in" the following: 'chapter 337, subchapter 3 and'

Amend the bill in section 1 in subsection 3 in the 8th line (page 1, line 11 in L.D.) by inserting after the following: "provided in" the following: 'chapter 337, subchapter 3 and'

Amend the bill in section 4 in §192 in the first indented paragraph in the first line (page 1, line 34 in L.D.) by inserting after the following: "provided in" the following: 'chapter 337, subchapter 3 and'

Amend the bill in section 5 in sub-c. 5-C in §840-C by striking out all of subsection 2 (page 2, lines 34 to 40 and page 3, lines 1 to 5 in L.D.) and inserting the following:

2. Contents of notice. The notice under subsection 1, construed in the light most favorable to the whistleblower, must include:

A. For a claim of a violation of this chapter:

- (1) The name, address and contact information of the alleged violator;
- (2) If the whistleblower's identity is confidential, the name and contact information of the whistleblower's representative organization;
- (3) If the whistleblower's identity is not confidential, the name and contact information of the whistleblower or the whistleblower's representative organization;
- (4) If the whistleblower has retained legal counsel, the name, address and contact information of the legal counsel; and
- (5) A concise statement of the underlying claim reasonably calculated to apprise the Attorney General or the responsible state official of the substance and nature of the claim; and

B. For a claim of a violation of Title 5, chapter 337, a complaint filed pursuant to Title 5, section 4611 and the Maine Human Rights Commission procedural rule.'

SENATE AMENDMENT

1 Amend the bill in section 5 in sub-c. 5-C in §840-C by striking out all of subsection 4
2 (page 3, lines 15 to 17 in L.D.) and inserting the following:

3 **'4. Investigation; decision regarding action.** For an alleged violation of this chapter,
4 the Attorney General or the responsible state official who receives notice under subsection
5 1 has 180 days to investigate the alleged violation and initiate a private enforcement action.
6 For an alleged violation of Title 5, chapter 337, the responsible state official has 180 days
7 to investigate the alleged violation, and:

8 A. If, after 180 days, the investigation is incomplete or results in a finding or
9 recommended finding that no reasonable grounds exist to believe that unlawful
10 discrimination has occurred pursuant to Title 5, section 4612, the responsible state
11 official has an additional 90 days in which to initiate an enforcement action; and

12 B. If, after 180 days, the investigation results in a finding or recommended finding that
13 reasonable grounds exist to believe that unlawful discrimination has occurred pursuant
14 to Title 5, section 4612, the responsible state official has an additional 90 days to
15 attempt conciliation pursuant to Title 5, section 4612, subsection 3 and, if conciliation
16 efforts fail, an additional 90 days to initiate an enforcement action.'

17 Amend the bill in section 5 in sub-c. 5-C in §840-C in subsection 6 in the 5th line (page
18 3, line 29 in L.D.) by striking out the following: "180 days of receipt of the notice" and
19 inserting the following: 'the time periods provided in subsection 4'

20 Amend the bill in section 5 in sub-c. 5-C in §840-C in subsection 7 in the first line
21 (page 3, line 33 in L.D.) by striking out the following: "30" and inserting the following:
22 '60'

23 Amend the bill in section 5 in sub-c. 5-C in §840-C in subsection 7 in the 4th line (page
24 3, line 36 in L.D.) by striking out the following: "30-day" and inserting the following: '60-
25 day'

26 Amend the bill in section 5 in sub-c. 5-C in §840-C in subsection 7 in paragraph A by
27 striking out all of subparagraph (4) (page 4, lines 7 to 10 in L.D.) and inserting the
28 following:

29 '(4) If the Attorney General or the responsible state official substantially prevails
30 in the private enforcement action, the whistleblower may ask the court to award
31 fair compensation for any attorney's fees and costs expended on behalf of the
32 whistleblower in instituting the private enforcement action.'

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

35 SUMMARY

36 This amendment makes the following changes to the bill:

37 1. It includes the Maine Human Rights Act in the exception to the requirement that the
38 Attorney General appear for the State in certain civil actions and proceedings;

39 2. It requires that a notice of a private enforcement action initiated by a whistleblower
40 under this legislation that claims a violation of the Maine Human Rights Act include a
41 complaint filed pursuant to the Maine Human Rights Act and Maine Human Rights
42 Commission procedural rules;

1 3. It specifies the procedure for an investigation of a private enforcement action
2 brought under this legislation that alleges violations of the Maine Human Rights Act; and

3 4. It permits a whistleblower to request from a court any attorney's fees and costs
4 expended on behalf of a whistleblower instituting a private enforcement action under this
5 legislation if the Attorney General or responsible state official substantially prevails in the
6 private enforcement action.

7 **SPONSORED BY:** _____

8 **(Senator BAILEY, D.)**

9 **COUNTY: York**