



**TESTIMONY OF MAINE EMPLOYMENT LAWYERS ASSOCIATION
IN SUPPORT OF LD 2184, RESOLVE REGARDING LEGISLATIVE
REVIEW OF CHAPTER 9: RULES GOVERNING ADMINISTRATIVE
CIVIL MONEY PENALTIES FOR LABOR LAW VIOLATIONS, A
MAJOR SUBSTANTIVE RULE OF THE DEPARTMENT OF LABOR,
BUREAU OF LABOR STANDARDS**

My name is Jeffrey Neil Young. I am an attorney with Solidarity Law and practice in Cumberland, Maine. I serve as an Executive Board member of the National Employment Lawyers Association (NELA) and as vice-president of the Maine Employment Lawyers Association (MELA). NELA is the largest organization of civil rights lawyers in the country with about 4,000 national and affiliate attorney members. MELA is the largest organization of civil rights lawyers in Maine with about 75 member attorneys who represent employees in labor and employment matters across the state as at least 2/3 of their practice. I have been practicing labor and employment law for over 40 years, the last 35 years here in Maine.

MELA urges this Committee to enact the Resolve in LD 2184 to strengthen fines and penalties for violation of Maine's labor and employment laws. At the current time, enforcement of penalties for violation of these laws is vested solely in the discretion of the courts, although presumably the Maine Department of Labor (MDOL) may settle cases, including for penalties, before they ever reach the courts.

The resolve would give the MDOL discretion to assess penalties and liquidated damages for violation of Maine's wage and hour laws without the need to resort to the courts. Doing so would have several salutary effects. First, it would encourage employers to abide by the law rather than contest matters in court, thus reducing time-consuming litigation and conserving legal resources. Second, it would put the agency with everyday experience and knowledge about how to deter violations in charge of the law, rather than individual judges, who have only infrequent exposure to these types of cases. And third, and perhaps most importantly, the proposed changes likely would ensure that the penalties and damages embodied in the statute truly have a deterrent effect that currently is absent.

According to figures provided by the MDOL for 2021-2023 and as calculated by the Maine Center for Economic Policy, although the existing wage and hour statute permits the assessment of penalties of up to \$100 per violation, the average penalty paid by employer per violation is only \$9.61 per violation, or not even 10% of what the law permits. Obviously, this hardly serves as a deterrent. And of course, these penalties have been paid only by employers caught violating the law; others who aren't caught pay nothing and know that if they are caught, they will pay virtually nothing other than the wages that they should have paid to workers in the first place.

Wage theft is endemic not just nationally but right here in Maine. In 2021, MECEP issued a statement “Wage theft costs workers millions. This bill would help workers get what they’re owed” in support of LD 616, which also proposed reforming the penalty provisions. The statement estimated that low-income wage workers in Maine had had \$30 million in wages stolen from them in 2017 alone. The Economic Policy Institute put the price tag nationally at over \$3 billion for 2017-20. <https://www.epi.org/publication/wage-theft-2021/>

For these reasons, MELA strongly supports the passage of the Resolve.