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April 16, 2025

Senator Michael Tipping, Chair
Representative Amy Roeder, Chair
Committee on Labor and Housing
100 State House Station
Augusta, Maine 04333

Re: *L.D. 1587 - An Act to Establish Greater Alignment of Penalties for Certain Labor Law Violations*

Greetings, Senator Tipping, Representative Roeder and esteemed members of the Committee on Labor and Housing, I am writing today in opposition to L.D. 1587, *An Act to Establish Greater Alignment of Penalties for Certain Labor Law Violations*.

This bill permits the Maine Department of Labor to refer cases of intentional or knowing violations of Title 26, chapters 7 and 15, to the Office of the Attorney General for criminal prosecution, if the Director of the Bureau of Labor Standards believes criminal prosecution is warranted. The bill would also require OAG to review such cases within 30 days to determine whether to prosecute and to provide the Director with the reasons for declining to prosecute, should the Office do so.

Title 26, chapters 7 and 15, contains over 70 statutory sections, ranging widely from requiring timely and full payment of wages, payment of minimum wage, overtime and tips and equal pay to recordkeeping provisions, the requirement to provide employees access to their personnel files, protection of break time and appropriate space for nursing mothers, and earned paid leave. This bill would apply, without exception, to all of them.

With limited exceptions, the statutes in Title 26, chapters 7 and 15 are strict liability statutes, and proven by a preponderance of the evidence. This means that MDOL does not need to establish whether the employer intentionally, maliciously, knowingly or willfully intended for the violation to occur – only whether the violation did, in fact, occur. This standard is significantly different from a criminal standard, which requires showing evidence beyond a reasonable doubt.

These statutes are also investigated by Labor and Safety Inspectors who are not sworn law enforcement and do not have the power to serve warrants or to arrest. Employers who violate these statutes are subject to civil penalties and can be ordered to pay wages, liquidated damages and interest to the affected employees. Adding the potential of criminal penalties would not only require substantial additional resources in training and supervision but would fundamentally change the character of these investigations. Currently, most employers cooperate with investigations, and many cases are resolved through settlement agreements – creating a threat of prosecution is likely to reduce cooperation and make settlements more difficult to achieve, which may make it more difficult or time-consuming to obtain remedies for the affected workers. Furthermore, wage theft is already punishable as a crime, specifically theft. MDOL has the ability refer cases to the appropriate District Attorney for potential prosecution as theft pursuant to 17-A M.R.S. §§ 353 and 357.

Lastly, as you all know well, our State's criminal justice system is facing a significant crisis. The court backlogs will only be exacerbated by the addition of new crimes, further delaying a range of matters that have already been delayed far too long.

We urge you to vote ought not to pass on LD 1587.

Sincerely,

A handwritten signature in black ink, reading "Aaron M. Frey". The signature is fluid and cursive, with the first name "Aaron" being the most prominent part.

Aaron M. Frey
Attorney General