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RE: LD 960

Senator Carney, Representative Moonen, honorable members of the Joint Standing Committee on the Judiciary, my name is Richard Bradstreet. I represent House District 61, which is comprised of my home town of Vassalboro and most of Sidney. I'm here today to present to you **LD 960, *An Act Regarding the Limits on Civil Remedies Available Under the Maine Human Rights Act***, on behalf of the Maine State Chamber of Commerce.

This bill presents two technical clarifications of the Maine Human Rights Act that the Chamber believes are necessary due to recent decisions that have and will continue to harm employers of all sizes in Maine without action.

The first is a clarification under Section 3, clarifying that the cap on compensatory and punitive damages set out in Section 1(c) cannot be waived. This seems obvious given that the caps are specifically delineated in the statute. All parties to these proceedings know what the caps are, because they are clearly stated. However, the United States District Court for the District of Maine is now treating damages caps as optional and waivable, which creates significant uncertainty for employers. This bill is an attempt to bring certainty for everyone going forward.

Passing LD 960 would clarify that the damages caps are the actual caps and are not waivable. This would reduce needless filings seeking clarity on the caps and provide certainty to civil defendants.

The second clarification that LD 960 provides is the prevention of double recovery under the Maine Human Rights Act. Again, the Act specifies the maximum amount of compensatory and punitive damages available to plaintiffs. That amount is completely up to the Legislature and the Legislature has set forth bands of caps starting at \$50,000 for the smallest employers and \$500,000 for the largest employers. The Judiciary, however, is now permitting litigants to exceed those caps by stacking damages.

The United States District Court for the District of Maine has acknowledged that whether a statute permits double punishment as well as the size of the caps is up to "legislative intent." That remains true here today. However, the Chamber believes the Legislature's intent of providing a higher cap than the ADA was to treat the federal law as the floor. It is my understanding that some states, like Texas, use the same damages as the federal law. Maine raised the floor, but I do not believe the Legislature meant to more than double the available damages. The Chamber, and I, do not think double punishment is appropriate, fair, or something the Legislature ever intended. This bill clarifies as such.

I appreciate the opportunity to present this legislation. I can try and answer any questions you may have, but I know there is someone representing the Chamber coming behind me who is much better equipped to answer your specific questions on these proposed changes. Thank you for your time and consideration.