

Testimony 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"

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Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor and Housing, my name is Arthur Phillips, and I am an analyst at the Maine Center for Economic Policy. I offer this testimony in support of LD 2184 to update rules regarding enforcement of our state's labor law.

All Maine workers are entitled to the wages they earn and protection from labor law violations more generally. While most employers play by the rules, those which do not must be held accountable so as not to incentivize this behavior. We therefore strongly support the Department of Labor's proposed changes.

Workers in Maine lose tens of millions of dollars to wage theft every year, whether by being paid less than the minimum wage, not receiving overtime pay, not being paid for all the hours they work, or for other reasons. Most wage theft occurs in jobs that already pay low wages -- MECEP estimated that minimum wage violations in Maine amounted to \$30 million in 2017.¹ Workers with low wages often have the least ability to successfully confront their employers, and many fear being retaliated against for coming forward. That is why the Department's work to proactively investigate and penalize labor law violations, including but not limited to wage theft, is so important.

The Department has made positive strides in recent years, including by making data on their enforcement actions public. However, that data tells us that many violators are let off with minimal penalties if any at all, which limits the disincentivizing effect of the Department's actions. Our analysis of the Department's public data finds that, **from 2021 – 2023, employers whom the Bureau of Labor Standards found to have violated wage and hour laws paid an average penalty of \$9.61 per violation.**² That is less than half the cost of a parking ticket in Portland when you neglect to refill the meter.

In this context, standardizing penalty amounts, while accounting for employer size, track record, gravity of violations, and good faith engagement, is a common-sense change. Additionally, removing any perceived conflict of interest from the appeals process will help the Bureau ensure most employers are following the letter of the law.

Section V of the rule changes is especially promising, as it establishes a process to evaluate the Bureau's effectiveness and chart a path towards more proactive enforcement. To effectively defend labor law, the Bureau must be strategic in using its limited resources and

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not simply rely on a complaint-based strategy which may overlook workplaces where workers fear retaliation if they were to come forward. Setting a target of 40 percent of resources dedicated to such proactive enforcement is a reasonable bar to strive for. Furthermore, this section wisely proposes to engage organizations that can help facilitate worker participation in studying the effectiveness of the Bureau's enforcement, an important improvement over the current system.ⁱⁱⁱ

For the benefit of workers across Maine and the enforcement of our state's labor laws, MECEP strongly supports these changes.

I am happy to answer any questions you may have.

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ⁱ James Myall, Maine Center for Economic Policy, <https://www.mecep.org/blog/wage-theft-costs-workers-millions-this-bill-would-help-workers-get-what-theyre-owed/>

ⁱⁱ Maine Department of Labor, Wage and Hour Violations, 2021-2023, data available at <https://www.maine.gov/labor/bls/whv2023/index.shtml>

ⁱⁱⁱ For more on such partnerships see, "Power in partnership: How government agencies and community partners are joining forces to fight wage theft," Rachel Deutsch and Terri Gerstein, Economic Policy Institute, available at <https://www.epi.org/publication/community-enforcement-partnerships/>