

**Testimony of Jake Lachance**

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**Maine State Chamber of Commerce**

**Before the Joint Standing Committee on Labor**

**Testimony In Opposition to LD 1587 "An Act to Establish Greater Alignment of Penalties for Certain Labor Law Violations"**

Senator Tipping, Rep. Roeder, and members of the Joint Standing Committee on Labor, my name is Jake Lachance, and I am a Government Relations Specialist for the Maine State Chamber of Commerce, which advocates for a network of over 5,000 large and small businesses across the State of Maine. I am here to give testimony in opposition to LD 1587 "An Act to Establish Greater Alignment of Penalties for Certain Labor Law Violations".

We appreciate the intent to ensure fairness and accountability in Maine's labor laws. However, LD 1587 represents a substantial and concerning expansion of criminal enforcement authority against Maine's business community, particularly when viewed in comparison to existing federal standards and protections.

**Key Concerns:**

**1. Broader Mens Rea Standard than Federal Law**

The bill states that a person who "intentionally or knowingly" violates certain labor laws is guilty of a Class E crime, subject to a \$10,000 fine. This is a significantly broader standard than the federal Fair Labor Standards Act (FLSA), which only applies criminal penalties to those who "willfully" violate federal wage and hour provisions (29 U.S.C. § 216(a)). The term "willfully" has a high threshold under federal law, typically requiring proof that the employer knew their conduct was unlawful and acted anyway. In contrast, Maine's proposal encompasses a wider range of conduct and could inadvertently criminalize good-faith mistakes.

**2. No Good Faith Defense Under State Law**

Unlike federal law, which recognizes a good-faith defense under 29 U.S.C. § 259 for employers who act in reliance on official interpretations, Maine's wage and hour laws offer no such statutory defense. The absence of a parallel safeguard makes LD 1587's criminal penalties particularly problematic. Employers trying in good faith to comply with a complex and evolving regulatory environment could be subjected to criminal sanctions for administrative or technical errors.

### **3. Misalignment with Stated Purpose and Summary Language**

While the bill's summary suggests that it "codifies into the Maine Revised Statutes provisions of the federal Fair Labor Standards Act," the actual statutory language goes beyond federal practice. For example, the bill removes the federal requirement of a prior conviction before imprisonment can occur and instead specifies that even a first offense could result in a \$10,000 fine with no clear path to demonstrate compliance or mitigate penalties.

### **4. Expansive Enforcement Mechanism Without Guardrails**

LD 1587 enables the Director of Labor Standards to initiate criminal referrals and mandates a response from the Attorney General within 30 days. While we appreciate the attempt at transparency, this structure creates pressure to criminalize behavior that has historically been handled through civil processes. It may also lead to over-enforcement, especially in industries where labor regulations are evolving rapidly.

Maine's business community supports strong labor standards, but these must be paired with fair and balanced enforcement mechanisms. LD 1587, as drafted, is another massive leap forward for the Bureau of Labor Standards within the Department of Labor, after a large leap was taken last year with LD372 and Chapter 9 Rule changes. The Chamber would encourage the committee to let those new regulations and enforcement mechanisms settle in before driving forward with a heavier hand.

Thank you for your time and consideration. I would be happy to answer any questions.