

TESTIMONY of Megan Diver  
Vice President  
Maine Energy Marketers Association

**BEFORE THE JOINT STANDING COMMITTEE ON  
LABOR**

**IN OPPOSITION OF LD 2018**

**“An Act to Amend the Requirements Governing Self-insurance Plans in the  
Paid Family and Medical Leave Benefits Program”**

Senator Tipping, Representative Roeder, and members of the Joint Standing Committee on Labor, my name is Megan Diver, I am the Vice President of the Maine Energy Marketers Association (MEMA).

The Maine Energy Marketers Association represents energy marketers across the State of Maine who deliver essential fuels — including propane, heating oil, biofuels, and motor fuels — to more than 400,000 households and businesses. Our members are committed to safe, reliable, and cost-effective energy delivery for all Mainers. Many of our members are small and mid-sized, family-owned businesses that are highly regulated, labor-intensive, and deeply rooted in their local communities. MEMA respectfully opposes LD 2018.

MEMA is self-insured for both medical benefits and workers’ compensation. This model has allowed us to responsibly manage costs, maintain compliance, and tailor benefits to the needs of our members and their employees.

When Maine enacted the Maine’s Paid Family and Medical Leave law, MEMA along with many others acted in good faith to comply by electing the self-insurance option. This process was complex and required significant time and effort. MEMA dedicated substantial administrative and operational resources to meet all requirements established by the Department of Labor.

LD 2018 penalizes employers who acted in good faith and complied with the Paid Family and Medical Leave (PFML) law as it is written. It does so by retroactively restricting lawful self-insurance arrangements and prohibiting employers from working collectively through trusts or buying groups—despite the fact that the PFML statute contains no prohibition on such arrangements.

The PFML law is silent with respect to groups, trusts, cooperatives, or other forms of collective employer action. There is no language in statute that bars employers from pooling resources or organizing collectively to meet self-insurance requirements. MEMA members relied on the language of the law and the Department of Labor’s application process when deciding how to comply.

All participating employers individually qualified for self-insurance. Each met the statutory requirements, submitted the required letters of attestation, and received approval from the Maine Department of Labor. Those approvals demonstrate that the employers were otherwise fully compliant and eligible. Changing the rules after the fact undermines regulatory certainty and discourages employers from investing in lawful compliance efforts in the future.

MDOL's subsequent order to unwind an approved trust represents an overreach of authority. Prohibiting a buying group has no rational relationship to the delivery of PFML benefits, and the Department has never articulated a legitimate public purpose for doing so.

These actions infringe on fundamental principles of freedom of contract and freedom of association. Employers should not be barred from voluntarily working together to comply with the law in a responsible and cost-effective manner. For many MEMA members, collective self-insurance is the best—and sometimes the only—practical way to meet PFML obligations while continuing to provide competitive wages and benefits.

Rather than improving the PFML program, MDOL's actions increase costs and create unnecessary uncertainty. Conditioning approvals on letters of attestation imposed avoidable expenses. Ordering employers to dismantle an already-approved trust forced businesses to expend enormous amounts of time and money—costs that can never be recovered. These are resources that would otherwise go toward employees, operations, and customer service.

LD 2018 further serves to suppress private-sector solutions while steering employers toward a single government-run option, creating a de facto monopoly. Private-sector alternatives give Maine employers choice and allow them to select the most cost-effective method of compliance while still fully protecting employee benefits. That flexibility should be preserved, not eliminated.

Additionally, MDOL has approved insurance carriers to participate in the PFML program, yet has indicated opposition to association captives or similar employer-based arrangements. This unequal treatment is discriminatory and represents another unwarranted expansion of agency authority.

MEMA urges the Committee to oppose LD 2018. The bill retroactively changes the rules, penalizes employers who followed the law, increases costs for Maine businesses and workers, and undermines confidence in state approvals. Maine's PFML program should allow flexibility, innovation, and lawful private-sector participation—not restrict it.

Thank you for the opportunity to testify. I would be happy to answer any questions.

Thank you for your consideration.