



MAINE AFL-CIO

A Union of Unions Standing for Maine Workers

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Testimony of Maine AFL-CIO Legislative & Political Director, Adam Goode, in Support of L.D. 767, "An Act to Provide Uniform Protections from Retaliation for Maine"

Senator Tipping, Representative Roeder and members of the Joint Standing Committee on Labor & Housing, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support of LD 767.

This legislation prohibits an employer from discriminating or retaliating against a worker who exercises their rights under Maine's employment laws. The workplace has a fundamental power imbalance, with employers controlling many aspects of a worker's life. One such avenue of control is to blatantly or subtly punish workers who exercise workplace rights.

Our understanding is that the sponsor plans to support additional language in the bill to emphasize that existing private rights of action, including the private right of action protection in the Maine's whistleblower law, remain in effect. We are in strong support of this bill with an amendment to ensure that statute changes in LD 767 would be in addition to any other remedy available under Title 26 Chapter 7 and would not prevent a worker from bringing an individual claim for damages where one already exists.

Retaliation and the fear of being retaliated against happens to working people in a range of industries. As recently as 2019, it was found that 30 percent of Maine workers in the private sector didn't use paid leave because they feared employer retaliation or their employer made it too difficult to use the paid leave.¹ Retaliation is particularly rampant in low-wage work, amongst immigrant workers and in work done by women.² Nationwide, retaliation is widespread and known to happen both explicitly and subtly through employer tactics like firing workers, changing hours and shifts to less desirable times or blacklisting workers with other employers.³

Working people have some protection against employer retaliation when a worker reports a violation of a law through Maine's existing whistleblower law. That law does not provide protection from retaliation when the worker exercises a positive right. This means that if a worker reports their employer for violating an existing law, like engaging in wage theft, and the employer retaliates against the worker with a demotion, reducing their hours or reporting their family members to immigration authorities, that employer would face additional penalties.

LD 767 improves retaliation laws by providing workers with protections for scenarios when they are retaliated against for exercising a right for the labor protections found in Title 26, Chapter 7. One example in this scenario would be an employer granting a worker's request to take earned paid time off, but then reducing the workers hours in order to punish the worker for exercising their right. Other employee rights that would contain protection from retaliation in this

¹James Myall. *State of Working Maine 2019*. Maine Center For Economic Policy, December 18, 2019.

<https://www.mecep.org/maines-economy/state-of-working-maine-2019/>

²Laura Huiza. *Exposing Wage Theft Without Fear: States Must Protect Workers from Retaliation*. National Employment Law Project, June 2019. <https://www.nelp.org/publication/exposing-wage-theft-without-fear/>

³Laura Huiza, *Retaliation Funds: A New Tool to Tackle Wage Theft*. National Employment Law Project, April 2021.

<https://www.nelp.org/publication/retaliation-funds-new-tool-tackle-wage-theft/>

chapter include, but are not limited to the rights for rest breaks, limits on mandatory overtime and the rights of nursing mothers to have adequate break time in the workplace.

We have great worker protection laws on the books, including the right to a 30-minute break for every six hours of consecutive work, to disclose wages to coworkers or to request leave as a victim of domestic violence. These worker protection laws fall short of meeting their objectives if they do not guarantee strong protection from retaliation. We cannot expect workers to demand these basic rights at work if that means risking getting stuck with a bad shift or losing hours, leading to lost pay and all of the stress associated with missed payments, lower credit scores, eviction or loss of transportation.

LD 767 will help working people avoid retaliation in the workplace. We urge your support for this bill.