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Date: (Filing No. H-)

LABOR AND HOUSING

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 28, L.D. 53, “An Act to Ensure Accountability for Workplace Harassment and Assault by Removing Intentional Acts and Omissions from Workers' Compensation Exemptions”

Amend the bill by striking out the title and substituting the following:

'An Act to Ensure Accountability for Workplace Sexual Harassment and Sexual Assault by Removing Certain Intentional Torts from Workers' Compensation Exemptions'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 39-A MRSA §104, first ¶, as amended by PL 2017, c. 402, Pt. C, §109 and affected by PL 2019, c. 417, Pt. B, §14, is further amended to read:

An employer ~~who~~ that has secured the payment of compensation in conformity with sections 401 to 407 is exempt from civil actions, either at common law or under sections 901 to 908; Title 14, sections 8101 to 8118; and Title 18-C, section 2-807, involving personal injuries sustained by an employee arising out of and in the course of employment, or for death resulting from those injuries. An employer that uses a private employment agency for temporary help services is entitled to the same immunity from civil actions by employees of the temporary help service as is granted with respect to the employer's own employees as long as the temporary help service has secured the payment of compensation in conformity with sections 401 to 407. "Temporary help services" means a service where an agency assigns its own employees to a 3rd party to work under the direction and control of the 3rd party to support or supplement the 3rd party's ~~work-force~~ workforce in work situations such as employee absences, temporary skill shortages, seasonal ~~work-load~~ workload conditions and special assignments and projects. ~~These~~ Except as provided in section 104-A, these exemptions from liability apply to all employees, supervisors, officers and directors of the employer for any personal injuries arising out of and in the course of employment, or for death resulting from those injuries. These exemptions also apply to occupational diseases sustained by an employee or for death resulting from those diseases.

COMMITTEE AMENDMENT

1 These exemptions do not apply to an illegally employed minor as described in section 408,
2 subsection 2.

3 **Sec. 2. 39-A MRSA §104-A** is enacted to read:

4 **§104-A. Liability for sexual harassment, sexual assault or certain intentional torts**

5 **1. Liability for sexual harassment, sexual assault or certain intentional torts.** An
6 employee, supervisor, officer or director of an employer is liable for sexual harassment,
7 sexual assault or an intentional tort related to sexual harassment or sexual assault.

8 **2. Employer not liable.** This section may not be construed to impose liability on an
9 employer for sexual harassment, sexual assault or an intentional tort related to sexual
10 harassment or sexual assault committed by an employee, supervisor, officer or director of
11 the employer.

12 **3. Actions alleging employment discrimination not prohibited or limited.** This
13 section does not prohibit or limit an action alleging employment discrimination pursuant
14 to the Maine Human Rights Act or Title VII of the federal Civil Rights Act of 1964, Public
15 Law 88-352.'

16 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
17 number to read consecutively.

18 **SUMMARY**

19 This amendment, which is the majority report of the committee, replaces the bill. The
20 amendment makes an employee, supervisor, officer or director of an employer liable for
21 sexual harassment, sexual assault or an intentional tort related to sexual harassment or
22 sexual assault but exempts the employer from liability for those actions.

23 **FISCAL NOTE REQUIRED**

24 (See attached)