

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

Date: (Filing No. H-)

LABOR AND HOUSING

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 256, L.D. 358, “An Act To Protect Workers from Unsafe Working Conditions with Regard to Indoor Temperatures”

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

'An Act To Protect Workers from Unsafe Working Conditions with Regard to Temperatures'

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

'Sec. 1. 26 MRSA §563, sub-§4-A is enacted to read:

4-A. Direct threat. "Direct threat" means a significant risk of substantial harm.

Sec. 2. 26 MRSA §563, sub-§8 is enacted to read:

8. Negligent. "Negligent" means, with regard to an action or an omission of an action, could reasonably be foreseen to cause an injury to an employee.

Sec. 3. 26 MRSA §563, sub-§9 is enacted to read:

9. Workplace. "Workplace" means any plant, yard, premises, room or other place where an employee or employees are engaged in the performance of labor or service over which the employer has the right of access or control.

Sec. 4. 26 MRSA §563, sub-§10 is enacted to read:

10. Workshop. "Workshop" means the premises, room or place where manual labor is performed for the purpose of financial gain or a location that is incidental to any process of making, altering, repairing, ornamenting, finishing or adapting for sale any article or part of an article and over which the employer has the right of access or control. "Workshop" does not include a factory.

Sec. 5. 26 MRSA §565-C is enacted to read:

§565-C. Maximum temperatures and minimum temperatures in places of employment

COMMITTEE AMENDMENT

1 **1. Temperatures.** An employer shall maintain temperatures at workplaces and
2 workshops to ensure there is no direct threat to employees according to rules adopted by
3 the board.

4 **2. Duty owed to employee.** An employer has a duty to the employee to act to comply
5 with this section. An employer has breached its duty and is negligent when an employee
6 is at an increased risk or has a credible fear that there might be a significant risk of a direct
7 threat to the employee in the performance of the essential functions of a job. The employer
8 has a legal obligation to consider whether the risk can be eliminated or reduced to an
9 acceptable level with a reasonable accommodation. When an employee declares that such
10 a direct threat exists, the decision must be based on objective, factual evidence regarding
11 an employee's ability to perform the essential functions of a job.

12 **3. Rules.** The board shall adopt rules establishing maximum and minimum
13 temperatures for places of employment pursuant to this section by January 17, 2022. Rules
14 adopted pursuant to this section are major substantive rules as defined in Title 5, chapter
15 375, subchapter 2-A.

16 **Sec. 6. Appropriations and allocations.** The following appropriations and
17 allocations are made.

18 **LABOR, DEPARTMENT OF**

19 **Regulation and Enforcement 0159**

20 Initiative: Provides ongoing funds for 4 Labor and Safety Inspector positions, one
21 Occupational Health and Safety Program Supervisor position, one Office Associate II
22 position and related All Other costs to enforce the minimum temperature and maximum
23 temperature requirement in places of employment.

24 GENERAL FUND	2021-22	2022-23
25 POSITIONS - LEGISLATIVE COUNT	6,000	6,000
26 Personal Services	\$379,367	\$523,217
27 All Other	\$30,734	\$30,734
28		
29 GENERAL FUND TOTAL	\$410,101	\$553,951

30
31 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
32 number to read consecutively.

33 **SUMMARY**

34 This amendment, which is the minority report of the committee, requires the
35 Department of Labor, Board of Occupational Safety and Health to establish minimum
36 temperatures and maximum temperatures in places of employment.

37 **FISCAL NOTE REQUIRED**

38 (See attached)