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Legislative Document

No. 1353

S.P. 490

In Senate, April 21, 2015

**An Act To Prohibit Mandatory Membership in a Union or Payment
of Agency Fees as a Condition of Employment**

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator CUSHING of Penobscot.
Cosponsored by Representative WARD of Dedham and
Senators: BRAKEY of Androscoggin, VOLK of Cumberland, Representatives: AUSTIN of
Gray, STETKIS of Canaan.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 26 MRSA c. 43** is enacted to read:

3 **CHAPTER 43**

4 **RIGHT TO REFRAIN FROM JOINING A UNION**

5 **§3501. Definitions**

6 As used in this chapter, unless the context otherwise indicates, the following terms
7 have the following meanings.

8 **1. Employer.** "Employer" means a person, firm, association, corporation, public
9 employer, public school employer, public college, public university, public institution or
10 public education agency.

11 **2. Labor organization.** "Labor organization" means an organization, agency or
12 employee representation committee or union that exists for the purpose, in whole or in
13 part, of negotiating or bargaining with employers on behalf of employees concerning
14 wages, rates of pay, hours of work, other conditions of employment or other forms of
15 compensation.

16 **§3502. Right to refrain**

17 Notwithstanding any law to the contrary, a person may not be required, as a condition
18 of employment or continuation of employment, to:

19 **1. Member.** Become or remain a member of a labor organization;

20 **2. Dues.** Pay any dues, fees, assessments or other similar charges, however
21 denominated, of any kind or amount to a labor organization; or

22 **3. Payment to 3rd party.** Pay to a charity or other 3rd party, in lieu of payments
23 specified in subsection 2, any amount equivalent to or a pro rata portion of dues, fees,
24 assessments or other charges required of members of a labor organization.

25 **§3503. Agreements in violation**

26 An agreement, understanding or practice, written or oral, implied or expressed,
27 between a labor organization and an employer that violates a provision of this chapter is
28 unlawful, void and without any legal effect.

29 **§3504. Penalty**

30 A person who directly or indirectly violates any provision of this chapter commits a
31 Class D crime.

1 **§3505. Injunctive relief**

2 A person injured as a result of another person's violation or threatened violation of
3 the provisions of this chapter is entitled to injunctive relief against the person violating or
4 threatening to violate this chapter.

5 **§3506. Damages**

6 A person injured as a result of a violation or threatened violation of the provisions of
7 this chapter may recover all damages, including court costs and reasonable attorney's
8 fees, resulting from the violation or threatened violation. A recovery of damages under
9 this section is independent of and in addition to the penalty provided in section 3504.

10 **§3507. Duty to investigate and enforce**

11 The Attorney General shall investigate complaints of a violation or threatened
12 violation of this chapter and shall prosecute any person violating any of its provisions.
13 The Attorney General shall use all means available to ensure effective enforcement of
14 this chapter.

15 **§3508. Jurisdiction**

16 The Superior Court has jurisdiction to hear and decide prosecutions of all offenses
17 under this chapter.

18 **§3509. Exceptions**

19 This chapter does not apply to the following:

20 **1. Federal Railway Labor Act.** Employers and employees covered by the federal
21 Railway Labor Act, 45 United States Code, Chapter 8;

22 **2. Federal employers and employees.** Federal employers and employees;

23 **3. Federal enclaves.** Employers and employees on federal enclaves;

24 **4. Federal preemption or conflict.** Federal law when the provisions of this chapter
25 conflict with or are otherwise preempted by that federal law; or

26 **5. Existing contract.** An employment contract entered into before the effective date
27 of this chapter during the term of that contract.

28 **§3510. Application**

29 This chapter applies to a contract entered into, renewed or extended on or after the
30 effective date of this chapter.

31 **SUMMARY**

32 This bill prohibits a person from being required to join a labor organization or pay
33 any labor organization dues or fees as a condition of employment or continuation of

1 employment, notwithstanding any state law to the contrary. A violation is a Class D crime
2 and is also subject to civil damages and injunctive relief. The Attorney General is
3 responsible for enforcement and is required to prosecute all violations.