

Sponsor: Sen. Katz  
Drafter: HDF  
LR (item): 1051(01)  
Date: 2/27/2015  
File Name:

Title: An Act To Phase Out the Payment of Subminimum Wage to Individuals with Disabilities

Be it enacted by the People of Maine as follows:

**Sec. 1. 26 MRS §666** is repealed.

**Sec. 2. 26 MRS §673** is enacted to read:

**§673. Special wage certificates for individuals with disabilities**

**1. Special certificates prohibited.** Beginning November 1, 2015, the director may not issue special certificates authorizing an employer to pay an individual with a physical or mental disability a wage less than the minimum wage based on the individual's ability to perform the duties required for that employment in comparison to the ability of a person who does not have a physical or mental disability to perform the same duties.

**2. Minimum wage.** Except as provided by subsection 3, an employer may not employ any employee at a rate less than the rates required by section 664.

**3. Former special certificates.** A special certificate described in subsection 1, issued pursuant to the former section 666 or pursuant to federal law, may not be renewed and remains in effect until the earlier of its expiration date and November 1, 2018.

**4. Vocational rehabilitation services required.** The Department of Labor and the Department of Health and Human Services shall offer all individuals with disabilities being paid less than Maine's minimum wage vocational rehabilitation services at least annually, including career planning assistance and information and referrals regarding resources offering competitive employment services and supports.

**5. Exemption.** If after the expiration of a special certificate described in subsection 1, the individual who was employed at less than minimum wage may apply to the director for an individual work permit authorizing the payment of wages at less than the minimum wage rate for a certain employer. The permit shall state the lowest wage to be paid and shall remain in effect in regards to that employer in two year increments. This permit will only be granted after a formal review by the Department of Labor that verifies the following:

**A.** Individually designed and customized employment strategies have failed to yield an integrated, community-based, customized employment or self-employment at or above minimum wage;

B. The employer has made all possible efforts to provide reasonable accommodations to assist the individual to meet the essential functions of the job, including, but not limited to, providing training, providing supervision and support, making physical changes to the work place, tailoring the job to the individual's abilities or reassigning the individual to another position;

C. The individual agrees to the proposed wage rate; and

D. For individuals with intellectual disabilities or autism, the individual is engaging in a personal planning process pursuant to Title 34-B, section 5470-B.

An adverse application decision would be grievable pursuant to Title 34-B, section 5604.

### **SUMMARY**

Pursuant to current state and federal law, special certificates may be issued by both the State and Federal Government permitting an employer to pay an individual with a physical or mental disability a wage less than the state's minimum wage based on the individual's ability to perform the duties required for that employment in comparison to the ability of a person who does not have a physical or mental disability to perform the same duties. This bill would prohibit the State or Federal Government from issuing such certificates, and the state's general minimum wage law would be applicable to all persons. Existing special certificates authorizing payment of less than the minimum wage will remain in effect until the earlier of their expiration date and November 1, 2018. After the expiration of a previously issued certificate, an individual that was covered by such certificate can apply to the Bureau of Labor Standards within the Department of Labor for a special work permit authorizing the payment of wages at less than the minimum wage rate by a certain employer.