

Employment Discrimination Remedies Desk Aid*

LAW • COVERED	EMOTIONAL	PUNITIVE	PENALTIES	LOST WAGES	ATTY FEES/JURY
<p>Maine Human Rights Act, 5 M.R.S. §§4551, et seq.</p> <ul style="list-style-type: none"> • Race or color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin, WPA, prior Workers' Comp. • Nearly all employers, regardless of size. 	<ul style="list-style-type: none"> • Yes, if 15 or more employees. • Caps: \$50K for <101 ees \$100K for <201 ees \$300K for <501 ees \$500K for >500 ees • If cannot recover under §1981. • Good faith defense for reasonable accommodation. 	<ul style="list-style-type: none"> • Yes, if 15 or more employees. • Caps: \$50K for <101 ees \$100K for <201 ees \$300K for <501 ees \$500K for >500 ees • Clear and convincing evidence. • If cannot recover under §1981. • Good faith defense for reasonable accommodation. 	<ul style="list-style-type: none"> • Civil penal damages if under 15 employees. • Caps: \$20K 1st Order \$50K 2nd Order \$100K 3rd Order 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, fees. • Jury trial if 15 or more employees and claim for compensatory or punitive damages.
<p>42 U.S.C. §1981</p> <ul style="list-style-type: none"> • Race or color discrimination (includes ancestry or ethnicity, e.g., Arab, Jewish). • Nearly all private and public employers. 	<ul style="list-style-type: none"> • Yes. • No caps. 	<ul style="list-style-type: none"> • Yes • No caps. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, attorney's fees. • Jury trial.
<p>42 U.S.C. §1983</p> <ul style="list-style-type: none"> • Equal Protection, Due Process, First Amendment • State and local 	<ul style="list-style-type: none"> • Yes. • No caps. 	<ul style="list-style-type: none"> • Yes. • No caps. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, attorney's fees. • Jury trial.

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governmental employers and private employers acting under color of state or local law.					
Title VII , 42 U.S.C. §§2000e, et seq. <ul style="list-style-type: none"> • Race, color, religion, sex, national origin. • 15 or more employees. 	<ul style="list-style-type: none"> • Yes. • Caps: \$50K for <101 ees \$100K for <201 ees \$200K for <501 ees \$300K for >500 ees • Only available if cannot recover under §1981. 	<ul style="list-style-type: none"> • Yes. • Caps: \$50K for <101 ees \$100K for <201 ees \$200K for <501 ees \$300K for >501 ees • Preponderance. • Only available if cannot recover under §1981. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes. • Back pay capped at two years prior to filing with EEOC. 	<ul style="list-style-type: none"> • Yes, fees. • Jury trial.
ADA , 42 U.S.C. §§12111, et seq. <ul style="list-style-type: none"> • Disability. • 15 or more employees. 42 U.S.C. § 12111(5). • States 11th Amendment immunity. 	<ul style="list-style-type: none"> • Yes. • Caps: \$50K for <101 ees \$100K for <201 ees \$200K for <501 ees \$300K for >500 ees • Good faith defense for reasonable accommodation. 	<ul style="list-style-type: none"> • Yes. • Caps: \$50K for <101 ees \$100K for <201 ees \$200K for <501 ees \$300K for >500 ees • Good faith defense for reasonable accommodation. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Same as Title VII. 	<ul style="list-style-type: none"> • Yes, fees. • Same as Title VII.
ADEA , 29 U.S.C. §§621, et seq. <ul style="list-style-type: none"> • Age – 40 and over. • 20 or more employees. • States have 11th 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes, liquidated damages equal to lost wages, if violation was willful. • “Willful” means 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, attorney’s fees. • Jury trial.

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Amendment immunity.			knew conduct illegal or reckless disregard.		
EPA , 29 U.S.C. §206(d) <ul style="list-style-type: none"> • Unequal pay between sexes. • Nearly all employers regardless of size. 	• No.	• No.	<ul style="list-style-type: none"> • Yes, liquidated damages equal to lost wages. • “Willful” means “employer either knew or showed reckless disregard for the matter of whether its conduct was prohibited by the statute.” 	• Yes.	<ul style="list-style-type: none"> • Yes, attorney’s fees. • Jury trial.
FMLA , 29 U.S.C. §§2601, et seq. <ul style="list-style-type: none"> • 12 weeks of leave for childbirth, adoption, serious health condition. • 50 or more employees. 	• No.	• No.	<ul style="list-style-type: none"> • Liquidated damages equal to lost wages or money losses, unless good faith shown. 	<ul style="list-style-type: none"> • Lost wages, or actual money losses up to 12 weeks. 	<ul style="list-style-type: none"> • Yes, attorney’s fees. • Jury trial.
Title IX , 20 U.S.C. §1681(a) <ul style="list-style-type: none"> • Sex discrimination in education program or activity receiving Federal financial assistance. 	<ul style="list-style-type: none"> • Yes. • No caps. 	• No.	• No.	• Yes.	<ul style="list-style-type: none"> • Yes, attorney’s fees. • Jury trial when seeking money damages.

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<p>Rehab Act §504, 29 U.S.C. § 794(a)</p> <ul style="list-style-type: none"> • Qualified individual with a disability. • Recipients of federal financial assistance. 	<ul style="list-style-type: none"> • Yes. • No caps. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, attorney's fees. • Jury trial when seeking money damages.
<p>Title VI, 42 U.S.C. § 2000d</p> <ul style="list-style-type: none"> • No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. 	<ul style="list-style-type: none"> • Yes. • No caps. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • Yes. 	<ul style="list-style-type: none"> • Yes, attorney's fees. • Jury trial when seeking money damages.
<p>NLRA, 29 U.S.C. §158(a)</p> <ul style="list-style-type: none"> • Right to collective bargaining. • Most private employers (not 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • NLRB ordered remedies including reinstatement and back pay. 	<ul style="list-style-type: none"> • No jury trial.

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government).					
Maine Medical Leave , 26 M.R.S. §§843, et seq. <ul style="list-style-type: none"> • 10 weeks of leave per 2 years if employed for 12 consecutive months, unless fewer than 15 employees at job site. 	• No.	• No.	<ul style="list-style-type: none"> • Yes. \$100 per day the violation continues. • If willful, liquidated damages equal to lost wages or \$100 per day penalty. 	• Yes.	<ul style="list-style-type: none"> • Yes, attorney's fees. • Unclear if jury trial.
Maine Workers' Compensation Act , 39-A M.R.S. §353 <ul style="list-style-type: none"> • Retaliation for asserting rights. 	• No.	• No.	• No.	• Yes.	• Yes.

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