

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

(New Draft of H.P. 894, L.D. 1195)  
(New Title)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1695

H.P. 1243 House of Representatives, May 29, 1987  
Reported by Representative HALE from the Committee on  
Labor and printed under Joint Rule 2.

EDWIN H. PERT, Clerk  
Original bill sponsored by Representative McHENRY of  
Madawaska. Cosponsored by Representative PARADIS of Augusta  
and Senator ANDREWS of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Relating to Penalties for Failure to  
2 Make Prompt Payment of Workers'  
3 Compensation Benefits.  
4

5 Be it enacted by the People of the State of Maine as  
6 follows:

7 39 MRSA §104-A, sub-§2, as amended by PL 1983, c.  
8 479, §28, is repealed and the following enacted in  
9 its place:

10 2. Failure to pay within time limits. An employ-  
11 er or insurance carrier who fails to pay compensa-  
12 tion, as provided in this section, shall be penalized  
13 as provided in this subsection.

1 A. Except as otherwise provided by section 51-B,  
2 subsection 9, if an employer or insurance carrier  
3 fails to pay compensation as provided in this  
4 section, the commission shall assess against the  
5 employer or insurance carrier a forfeiture of up  
6 to \$100 for each day of noncompliance. If the  
7 commission finds that the employer or insurance  
8 carrier was prevented from complying with this  
9 section because of circumstances beyond their  
10 control, no forfeiture may be assessed.

11 (1) One-half of the forfeiture shall be  
12 paid to the employee to whom compensation is  
13 due and 1/2 shall be paid to the commission  
14 and be credited to the General Fund.

15 (2) If a forfeiture is assessed against any  
16 employer or insurance carrier under this  
17 subsection on petition by an employee, the  
18 employer or insurance carrier shall pay rea-  
19 sonable attorneys fees, as determined by the  
20 commission, to the employee.

21 (3) Forfeitures assessed under this subsec-  
22 tion may be enforced by the Superior Court  
23 as provided in section 103-E.

24 B. Payment of any forfeiture assessed under this  
25 subsection shall not be considered an element of  
26 loss for the purpose of establishing rates for  
27 workers' compensation insurance.

28 FISCAL NOTE

29 This new draft may result in additional revenue  
30 to the General Fund.

1

STATEMENT OF FACT

2 This new draft rewrites the original bill to en-  
3 courage the prevention of avoidable delays in the re-  
4 ceipt of workers' compensation benefits rather than  
5 attempting to make the employee whole after he suf-  
6 fers from the delay. It is the intent of this new  
7 draft to encourage the prompt payment of workers'  
8 compensation benefits after an order granting compen-  
9 sation has been issued. Present law provides for a  
10 forfeiture of up to \$25 a day to be paid to the State  
11 if an employer or insurer fails to make initial pay-  
12 ments of workers' compensation benefits within 10  
13 days after a commissioner's decision awarding compen-  
14 sation has been issued. This penalty has not proven  
15 to be an effective deterrent to late payment.

16 The new draft increases the present forfeiture  
17 from the present maximum of \$25 to \$100 a day. In ad-  
18 dition, the new draft allows this forfeiture to be  
19 assessed by the Workers' Compensation Commission  
20 rather than the Superior Court, as is done under  
21 present law. Granting the commission jurisdiction to  
22 assess these forfeitures will simplify and quicken  
23 the penalty process. If enforcement action is neces-  
24 sary to collect the forfeiture, the Superior Court  
25 continues to have jurisdiction over that aspect of  
26 the process. One-half of the forfeiture will be paid  
27 to the commission to be credited to the General Fund  
28 and the other 1/2 will be paid directly to the em-  
29 ployee as compensation for his delayed payment.  
30 This, along with the payment of any necessary attor-  
31 neys fees, will serve as an incentive for employees  
32 to enforce forfeitures against recalcitrant employers  
33 or insurers. This is necessary because the commission  
34 does not have the resources to pursue payment of for-  
35 feitures for late payment and it is just since it is  
36 the employee who suffers from the delay in payment.  
37 Finally, no forfeiture will be assessed if the delay  
38 in payment was due to circumstances beyond the con-  
39 trol of the employer or insurer. This new draft will  
40 only penalize employers or insurers for an avoidable  
41 delay in payment.

42

2886052287