

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1186

S.P. 442

In Senate, March 21, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator CONLEY of Cumberland  
Cosponsored by Senator McCORMICK of Kennebec.

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STATE OF MAINE

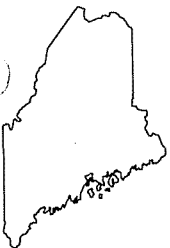
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Provide Individual and Family Health Insurance Coverage and  
Pension Coverage for Injured Workers.**

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

39 MRSA §2, sub-§2, ¶A-1 is enacted to read:

A-1. The calculation of "average weekly wages" does not include fringe benefits as long as the employer continues to provide individual and family health insurance coverage, pension coverage and continuing contributions to the injured worker and the worker's family. For purposes of this paragraph, "fringe benefits" includes, but is not limited to, family health insurance and pension and retirement benefits.

#### STATEMENT OF FACT

Current law does not include fringe benefits in the definition of "average weekly wages." The Maine Supreme Judicial Court recently determined that the costs of fringe benefits should be considered in calculating average weekly wages and, therefore, weekly disability benefits under the Workers' Compensation Act. See, Ashby and Gurney v. Rust Engineering Co., 559 A.2d 774 (Me. 1989). Because of issues of federal preemption and in order to encourage the provision of family health insurance and retirement benefits rather than additional cash income, this bill provides that an employer who continues to provide after-work-injury fringe benefits, such as individual and family health insurance and continuing pension rights and contributions, is not responsible for additional compensation costs by calculating those fringe benefits into the average weekly wages.