

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1202

H.P. 836

House of Representatives, March 20, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska.

Cosponsored by Senator ESTY of Cumberland, Representative PINEAU of Jay and Representative LUTHER of Mexico.

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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 Encourage the Prompt Resolution of Workers' Compensation  
Claims.**

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

2  
39 MRSA §51-B, sub-§7, as amended by PL 1989, c. 502, Pt. D,  
4 §22, is further amended by adding at the end a new block  
paragraph to read:

6  
7 If an employer files any notice of controversy under the  
8 provisions of this subsection and a commissioner subsequently  
9 awards compensation to the employee in a decision rendered under  
10 section 99, the commissioner may impose a 50% surcharge on the  
11 amount awarded if the commissioner finds that the notice of  
12 controversy was not filed in good faith. For purposes of this  
13 provision, if an employer files a notice of controversy because  
14 the employer has not obtained sufficient information within the  
15 applicable time limit to decide whether to contest a claim, such  
16 a notice may not be considered to have been filed in good faith  
17 unless the necessary information is unavailable due to  
18 circumstances beyond the employer's control.

#### 20 STATEMENT OF FACT

22  
23 Under existing law in most cases the failure of an employer  
24 to file a notice of controversy within 44 days in a case of  
25 incapacity constitutes acceptance of the compensability of the  
26 injury or death. Similarly, the failure of an employer to file a  
27 notice of controversy within 90 days in a case of impairment  
28 constitutes acceptance of the extent of impairment claimed and  
29 the failure of an employer to file a notice of controversy within  
30 75 days with respect to medical expenses constitutes acceptance  
31 of the reasonableness and propriety of the specific medical  
32 expenses for which compensation is claimed and requires payment  
33 for those services.

34  
35 In order to encourage the prompt resolution of workers'  
36 compensation claims and to prevent employers from filing notices  
37 of controversy for improper reasons, this bill authorizes an  
38 award against an employer of a 50% surcharge on the amount  
39 awarded to an employee in the event a commissioner of the  
40 Workers' Compensation Commission finds that the notice of  
41 controversy was not filed in good faith. This bill also provides  
42 that an employer will not be found to have filed a notice of  
43 controversy in good faith merely because the employer has not  
44 obtained sufficient information within the applicable time limit  
45 to decide whether or not to contest a claim unless the  
46 information is unavailable due to circumstances beyond the  
employer's control.