

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 34

S.P. 14

In Senate, January 6, 2005

### An Act To Institute Loser-pay Litigation in the State of Maine

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Reference to the Committee on Judiciary 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 CLUKEY of Aroostook.  
Cosponsored by Senator DAMON of Hancock, Representative BRYANT-DESCHENES of Turner, Representative SHERMAN of Hodgdon and  
Senators: DAVIS of Piscataquis, DOW of Lincoln, SAVAGE of Knox, Representative:  
CROSTHWAITE of Ellsworth.

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

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3       **Sec. 1. 14 MRSA §1502-B, sub-§§4 and 5.** as enacted by PL 1985,  
4 c. 384, §4, are amended to read:

6       **4. Travel expenses.** Reasonable expenses of travel within  
7 the State to the place of trial for the prevailing party or his  
8 the prevailing party's attorney of record, as provided by rule of  
9 the Supreme Judicial Court, or as directed by court, in the  
10 absence of that rule; and

12       **5. Other costs.** Such other costs as the Supreme Judicial  
13 Court may direct by rule; and

14       **Sec. 2. 14 MRSA §1502-B, sub-§6** is enacted to read:

16       **6. Attorney's fees.** The reasonable attorney's fees  
17 incurred by the prevailing party in prosecuting or defending the  
18 action.

20       A. Attorney's fees under this subsection must be paid by  
21 the nonprevailing party but may not exceed the amount of the  
22 attorney's fees of the nonprevailing party with regard to  
23 that position or claim.

26       B. If the nonprevailing party receives services under a  
27 contingent fee agreement, the amount of attorney's fees  
28 under this paragraph may not exceed the reasonable value of  
29 those services.

30       C. In order to receive attorney's fees under this  
31 subsection, the attorney of record for the prevailing party  
32 must maintain accurate, complete records of hours worked on  
33 the matter regardless of the fee arrangement with the  
34 prevailing party.

36       D. As used in this subsection, the term "prevailing party"  
37 means a party to an action who obtains a favorable final  
38 judgment, other than by settlement and exclusive of  
39 interest, on all or a portion of the claims asserted in the  
40 action.

42       E. The court may, in its discretion, limit the fees  
43 recovered under this subsection to the extent that the court  
44 finds special circumstances that make payment of those fees  
45 unjust.

48       F. This subsection does not apply to any action in which  
49 the State or any of its officers or agencies are parties.

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## SUMMARY

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This bill requires that the losing party in civil litigation pay the reasonable attorney's fees of the prevailing party.

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