

MAINE STATE LEGISLATURE

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MRS

L.D. 1107

1
2 Date: **05-30-07**

(Filing No. S-174)

3 **LABOR**

4 Reproduced and distributed under the direction of the Secretary of the Senate.

5 **STATE OF MAINE**
6 **SENATE**
7 **123RD LEGISLATURE**
8 **FIRST REGULAR SESSION**

9 COMMITTEE AMENDMENT "**A**" to S.P. 359, L.D. 1107, Bill, "An Act To
10 Promote Compliance with the Workers' Compensation Laws"

11 Amend the bill by striking out everything after the enacting clause and before the
12 summary and inserting the following:

13 **'Sec. 1. 39-A MRSA §324, sub-§2**, as enacted by PL 1991, c. 885, Pt. A, §8 and
14 affected by §§9 to 11, is amended to read:

15 **2. Failure to pay within time limits.** An employer or insurance carrier who fails to
16 pay compensation, as provided in this section, is penalized as follows.

17 A. Except as otherwise provided by section 205, if an employer or insurance carrier
18 fails to pay compensation as provided in this section, the board ~~shall~~ may assess
19 against the employer or insurance carrier a ~~forfeiture~~ fine of up to \$200 for each day
20 of noncompliance. If the board finds that the employer or insurance carrier was
21 prevented from complying with this section because of circumstances beyond its
22 control, ~~no forfeiture~~ a fine may not be assessed.

23 (1) The ~~forfeiture~~ fine for each day of noncompliance must be divided as
24 follows: Of each day's ~~forfeiture~~ fine amount, the first \$50 is paid to the
25 employee to whom compensation is due and the remainder must be paid to the
26 board and be credited to the Workers' Compensation Board Administrative Fund.

27 (2) If a ~~forfeiture~~ fine is assessed against any employer or insurance carrier under
28 this subsection on petition by an employee, the employer or insurance carrier
29 shall pay reasonable costs and attorney's fees related to the ~~forfeiture~~ fine, as
30 determined by the board, to the employee.

31 (3) ~~Forfeitures~~ Fines assessed under this subsection may be enforced by the
32 Superior Court in the same manner as provided in section 323.

COMMITTEE AMENDMENT

1 B. Payment of ~~any forfeiture~~ a fine assessed under this subsection is not considered
2 an element of loss for the purpose of establishing rates for workers' compensation
3 insurance.

4 **Sec. 2. 39-A MRSA §359, sub-§2**, as enacted by PL 1991, c. 885, Pt. A, §8 and
5 affected by §§9 to 11, is amended to read:

6 **2. Penalty.** In addition to any other penalty assessment permitted under this Act, the
7 board may assess civil penalties not to exceed ~~\$10,000~~ \$25,000 upon finding, after
8 hearing, that an employer, insurer or 3rd-party administrator for an employer has engaged
9 in a pattern of questionable claims-handling techniques or repeated unreasonably
10 contested claims. The board shall certify its findings to the Superintendent of Insurance,
11 who shall take appropriate action so as to bring any such practices to a halt. This
12 certification by the board is exempt from the provisions of the Maine Administrative
13 Procedure Act. The amount of any penalty assessed pursuant to this subsection must be
14 directly related to the severity of the pattern of questionable claims-handling techniques
15 or repeated unreasonably contested claims. All penalties collected pursuant to this
16 subsection must be deposited in the General Fund. An insurance carrier's payment of any
17 penalty assessed under this section may not be considered an element of loss for the
18 purpose of establishing rates for workers' compensation insurance.'

19

SUMMARY

20 This amendment changes from mandatory to permissive the assessment of a penalty
21 by the Workers' Compensation Board against an employer or insurance carrier for failure
22 to pay compensation. The amendment increases the maximum penalty for engaging in a
23 pattern of questionable claims-handling techniques or repeated unreasonably contested
24 claims from \$10,000 to \$25,000, as opposed to the \$100,000 maximum proposed in the
25 bill. The amendment also requires that the amount of the penalty be commensurate with
26 the severity of the proscribed acts and that penalties collected go to the General Fund.
27 Finally, the amendment provides that an insurance carrier's payment of any penalty
28 assessed under the Maine Revised Statutes, Title 39-A, section 359 may not be
29 considered an element of loss for the purpose of establishing rates for workers'
30 compensation insurance. This amendment also makes several technical corrections to
31 current law to conform to drafting standards.

32

FISCAL NOTE REQUIRED

33

(See attached)



123rd MAINE LEGISLATURE

LD 1107

LR 1565(02)

An Act To Promote Compliance with the Workers' Compensation Laws

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Labor

Fiscal Note Required: Yes

Fiscal Note

Undetermined current biennium revenue increase - General Fund
Undetermined current biennium revenue decrease - Other Special Revenue Funds

Fiscal Detail and Notes

Increasing the maximum penalty for engaging in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims from \$10,000 to \$25,000 and directing that penalties collected go to the General Fund will increase General Fund revenue and decrease dedicated revenue to the Workers' Compensation Board Administrative Fund beginning in fiscal year 2007-08. The amount can not be determined at this time.

Changing the assessment of a penalty by the Workers' Compensation Board against an employer or insurance carrier for failure to pay compensation from mandatory to permissive may also reduce the amount of dedicated revenue received by the Workers' Compensation Board Administrative Fund beginning in fiscal year 2007-08. The amount can not be determined at this time.