

# 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)

STATE OF MAINE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE ON  
LABOR  
BILL SUMMARY



JUNE 1987

PREPARED BY:

Gilbert Brewer, Legislative Analyst

OFFICE OF POLICY AND LEGAL ANALYSIS  
STATE HOUSE, STATION 13 AUGUSTA, MAINE 04333  
(207) 289-1670

HELEN T. GINDER, DIRECTOR  
HAVEN WHITESIDE, DEP. DIRECTOR  
GILBERT W. BREWER  
DAVID C. ELLIOTT  
GRO FLATEBO  
MARTHA E. FREEMAN, SR. ATTY.  
JERI B. GAUTSCHI  
CHRISTOS GIANOPOULOS  
WILLIAM T. GLIDDEN, JR.



STATE OF MAINE  
**OFFICE OF POLICY AND LEGAL ANALYSIS**

ROOM 101/107  
STATE HOUSE STATION 13  
AUGUSTA, MAINE 04333  
TEL.: (207) 289-1670

JULIE S. JONES  
JOHN B. KNOX  
EDWARD POTTER  
MARGARET J. REINSCH  
LARS H. RYDELL  
JOHN R. SELSER  
CAROLYN J. CHICK, PARALEGAL  
ROBERT W. DUNN, RES. ASST.  
HARTLEY PALLESCHI, JR., RES. ASST.  
KATHRYN VAN NOTE, RES. ASST.

ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

JOINT STANDING COMMITTEE  
BILL SUMMARIES  
JUNE 1987

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The summaries are arranged by LD number under each committee.

All Adopted Amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor if it is a floor amendment or the designation "COMMITTEE" if it is a committee amendment.

Final action for each bill is listed to the right of the title. If final House action and Senate action differ, both are listed.

Please let us know if you would prefer a different format or additional information and if the summaries are helpful.

Key to Committee Reports and Floor Action:

OTP	Ought to Pass
OTP-ND	Ought to Pass in New Draft
OTP-ND-NT	Ought to Pass in New Draft, New Title
OTP-A	Ought to Pass as Amended
ONTP	Ought Not to Pass
LVWD	Leave to Withdraw
INDEF PP	Indefinitely Postponed

Senate Amendment "A" (S-95) clarifies that the May 1st arbitration deadline in the bill is intended only to apply to teachers' bargaining units.

LD AN ACT CONCERNING MENTAL STRESS CLAIMS UNDER  
1668 THE WORKERS' COMPENSATION ACT

PL 1987  
c. 252

Sponsor: BEGLEY, Collins, Zirkilton  
Committee Report: New Draft of LD 541

SUMMARY: The original bill, LD 541, proposed to restore the "by accident" requirement to Maine's Workers' Compensation Act. This provision would have required an injured worker, in addition to showing that his injury arose out of and in the course of employment, to prove that his injury also occurred "by accident."

The new draft, LD 1668, completely rewrites the original bill and limits its effect to work-related mental stress claims. The new draft requires that a mental injury resulting from mental stress is not compensable under the Workers' Compensation Act unless it is shown by clear and convincing evidence that:

1. The work stress was extraordinary and unusual as compared to the usual pressures experienced by an average employee; and
2. The work stress was the predominant cause of the mental injury.

The new draft further provides that the amount or intensity of the work stress was to be measured by objective standards and not any subjective misperception even if honestly held by the employee. It also clarifies that normal employment decisions, such as disciplinary action, demotions or layoffs, may not be the cause of compensable stress claims if the action is taken in good faith by the employer.

LD AN ACT TO PROVIDE CIVIL ENFORCEMENT OF THE  
1690 ANTISTRIKEBREAKER LAW TO ENCOURAGE THE SETTLE-  
MENT AND PEACEFUL RESOLUTION OF LABOR DISPUTES

VETO  
SUSTAINED

Sponsor: BAKER,  
Committee Report: New Draft of LD 842  
Amendments Adopted:  
H-211 BAKER

SUMMARY: The original bill, LD 842, proposed to expand the scope of the existing law that prohibits persons from acting as professional strikebreakers and to make civil

penalties, including injunctions, available as well as existing criminal penalties.

The new draft, LD 1690, further defined the term "professional strikebreakers" so that it would include only those persons or entities that have customarily and repeatedly offered themselves or others for employment to perform work that would otherwise be done by the striking workers. The fact that a person or entity has done this at least twice before creates a presumption that he is a professional strikebreaker. The new draft also contained an exception that allowed employers to replace security personnel or routine maintenance workers during a labor dispute without violating the anti-strikebreaker law.

House Amendment "A" (H-211) redrafted the exception provisions to clarify that the following are exempt from the anti-strikebreaker law:

1. Security guards;
2. Maintenance work performed by persons employed by the seller or manufacturer of the equipment or by persons who previously performed the maintenance before the labor dispute began; and
3. Any permanent employees of the employer.

LD	AN ACT RELATING TO PENALTIES FOR FAILURE TO	PL 1987
1695	MAKE PROMPT PAYMENT OF WORKERS' COMPENSATION	c. 290
	BENEFITS	

Sponsor: MCHENRY, Paradis P, Andrews  
Committee Report: New Draft of LD 1195

SUMMARY: The original bill, LD 1195, proposed to allow a workers' compensation recipient to recover consequential damages suffered after an informal conference has been held and payment withheld while the case was being controverted by the employer or insurer.

The new draft, LD 1695, completely rewrote the bill in order to simplify and strengthen the present penalty system for the late payment of workers' compensation benefits. Under the new draft, if payment has not been made within 10 days after a commissioner's decision awarding benefits, the employer or insurer is liable for a penalty of up to \$100 per day of non-compliance. One-half of this penalty will be paid to the State and one-half to the affected employee. Jurisdiction over late payment penalties is transferred from the Superior Court to the Workers' Compensation Commission in order to simplify and speed up the penalty process. Enforcement of late payment penalties, as with all other workers' compensation orders,