MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND THIRTEENTH LEGISLATURE FIRST REGULAR SESSION

JOINT STANDING COMMITTEE ON

LABOR

BILL SUMMARY



JUNE 1987

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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

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,

remains in the Superior Court. If a penalty is assessed against an employer or insurer for late payment, they must also pay the attorney's fees incurred by the employee in bringing the action to recover the penalty. Finally, an employer or insurer is not liable for a penalty if the late payment is due to circumstances beyond their control.

LD AN ACT RELATING TO DETERMINATION OF BENEFIT PL 1987
1730 CLAIMS UNDER THE UNEMPLOYMENT COMPENSATION LAW c. 365

Sponsor: ZIRNKILTON, Tammaro, Hepburn Committee Report: New Draft of LD 1454

SUMMARY: The original bill, LD 1454, proposed to correct a deficiency in Maine's unemployment compensation law which rendered it out of conformity with federal law. Maine law permits a claimant to sign a waiver for benefits for specific weeks while federal law requires that unemployment benefits be paid "when due." The bill removed the non-conforming language from Maine Law and also eliminated the requirement that notice be given to a claimant and a fact-finding hearing held before benefits may be withheld from a claimant when the claimant himself provides the information necessary to determine eligibility for unemployment compensation.

The New Draft, LD 1730, retained the first part of the original bill which repealed the existing waiver provision but rewrote those provisions dealing with the requirement of a pre-termination fact-finding hearing in order to more narrowly tailor the hearing exemption to those cases in which the claimant clearly is not eligible for benefits. The new draft also increased from 7 to 14 days the time within which an individual, in order to remain eligible for unemployment compensation, has to begin a work search after moving to a new residence to accompany a spouse moving to a new job.

LD AN ACT TO CLARIFY THE DEFINITION OF INDEPENDENT LVWD
1732 CONTRACTOR FOR THE PURPOSES OF WORKERS' COMPENSATION

Sponsor: STEVENS, Rydell, Clark H Committee Report: LVWD

SUMMARY: LD 1732 proposed to add a definition of "independent contractor" for the purposes of the Workers' Compensation Act. The definition was based on the common-law definition drawn from case-law. The bill also reenacted the "non-business exemption" previously repealed by the Legislature. The "non-business exemption" provides that work done for an employer which is not in that employer's usual course of business is not covered by the Act.

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