

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
113TH LEGISLATURE
SECOND REGULAR SESSION



BILL SUMMARY
JOINT STANDING COMMITTEE
ON
LABOR

MAY 1988

MEMBERS

Sen. Dennis L. Dutremble *
Sen. Thomas H. Andrews
Sen. Donald F. Collins

Rep. Edward A. McHenry *
Rep. Tony J. Tammaro
Rep. Ruth Joseph
Rep. Mona Walker Hale
Rep. Richard P. Ruhlin
Rep. Anne M. Rand
Rep. Ralph M. Willey
Rep. Jeanne F. Begley
Rep. Michael F. Hepburn
Rep. Stephen M. Zirnkilton

* Denotes Chair

Staff: Gro Flatebo, Legislative Analyst

Office of Policy & Legal Analysis
Room 101, State House Sta. 13
Augusta, ME 04333
(207) 289-1670

EN T. GINDER, DIRECTOR
EN WHITESIDE, DEP. DIRECTOR
ERT W. BREWER
D C. ELLIOTT
) FLATEBO
THA E. FREEMAN, SR. ATTY.
B. GAUTSCHI
LIAM T. GLIDDEN, JR.



STATE OF MAINE
OFFICE OF POLICY AND LEGAL ANALYSIS

ROOM 101/107/135
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.

**ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST & SECOND SPECIAL SESSIONS
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES
MAY 1988**

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 for floor amendments. Final action is listed to the right of the title. If final House and Senate action differ, both are listed. Committee Reports and Floor Action are indicated as follows::

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

Each individual summary was prepared by the analyst assigned, as noted for each committee. But, this document was produced by the efforts of all the office staff, including Secretaries: Charlene Brann, Janet Jean, Earl Knox, Valarie Parlin; Research Assistant Hartley Palleschi. Finally, Secretary Laurette Knox, Legal Assistant Carolyn Chick, and Research Assistant Robert Dunn had special responsibilities in the preparation of the overall document.

Please give us your suggestions and comments on these summaries and tell us of any inaccuracies.

SPONSOR(S)

COMMITTEE REPORT

AMENDMENTS ADOPTED

DIAMOND
PRAY
MARTIN J
DUTREMBLE D

SUMMARY

New Draft Of LD 1948

LD 1948 proposed to increase the minimum wage by 20 cents each year over the next two years. The new draft increases the minimum wage by 10 cents to \$3.75 in 1989 and by another 10 cents to \$3.85 in 1990 unless the average minimum wage of the five other New England states is less. If there are no changes in legislation in New England, the average minimum wage is projected to be \$3.81 per hour in 1990. The Governor did not sign this bill, however it became public law.

LD An Act to Ensure Confidential and Reliable Substance Abuse
2589 Testing of Employees and Applicants

VETO
SUSTAINED

SPONSOR(S)

COMMITTEE REPORT

AMENDMENTS ADOPTED

S-519 PEARSON

SUMMARY

New Draft of LD 156, which was introduced pursuant to a Resolve

This bill was carried over from last year. LD 2589 attempts to reach a compromise position that allows random testing of certain employees with safeguards against any abuse of such testing. It allows substance abuse testing programs to be employed in the workplace, but restricts their application and ensures that proper procedures and safeguards are implemented. The bill prohibits the use of random or arbitrary substance abuse testing of employees except for those employees who work in positions where it would be difficult to discover the symptoms of an individual's substance abuse problem and in which an impaired worker would pose a substantial threat of direct and immediate serious bodily harm to the public or his coworkers.

The bill allows an employer to require substance abuse testing of any employee when he has probable cause to impose the test. The concept of probable cause is defined in the bill to prevent an employer from imposing substance abuse tests upon an employee without reliable, objective information supporting the finding of probable cause. Probable cause is not required for the testing of applicants for employment.

The bill also regulates the actual testing process to ensure that proper testing procedures are followed and that an employee's privacy rights are protected from undue intrusion. The bill requires a testing program to be conducted pursuant to a written policy developed by the employer in consultation with his employees. Certain testing procedures are also

regulated. Strict confidentiality of any information acquired through the testing process is required. Blood testing is prohibited except upon request of the employee. A test sample must be collected in a medical facility and be supervised by medical personnel. The test subject may remain clothed and free from observation by any other individual when a urine sample is collected. The test subject may request a portion of the sample for his own testing as a check on the accuracy of the testing laboratory used by the employer. All positive screening test results must be confirmed by gas chromatography-mass spectrometry. No employer may perform a substance abuse test for any of his employees or applicants; all tests must be performed by a qualified testing laboratory. Finally, employers are prohibited from using substance abuse tests to discover any information that does not relate to an individual's use of a substance of abuse that is likely to cause impairment of the user. Further, testing laboratories are prohibited from reporting such information to the employer.

The bill also regulates discipline taken upon receipt of a positive test result and includes a transition clause intended to define the permissible scope of substance abuse testing in the workplace during the interim period after passage of this bill. A fiscal note of approximately \$40,000 was included on the new draft.

The bill was amended in the Senate to remove agency rule-making and record-keeping requirements to avoid any fiscal impact.

The bill was vetoed, by the Governor and the veto was sustained.

LD	An Act to Amend the Rehabilitation System under the Workers' Compensation Act	PUBLIC 779 EMERGENCY
----	---	----------------------------

<u>SPONSOR(S)</u>	<u>COMMITTEE REPORT</u>	<u>AMENDMENTS ADOPTED</u>
Submitted pursuant to Public Law 1987, c. 559 Part B Section 53		H-614 BROWN S-416 DUTREMBLE S-533 PEARSON

SUMMARY

In the Second Special Session, the Legislature enacted a bill to reform the workers' compensation system. That Act also required a comprehensive overview of vocational rehabilitation under the workers' compensation system. This bill was a product of that review.

LD 2614 amends the purpose statement for vocational rehabilitation from getting an employee back to 'suitable' employment rather than gainful employment.

Consistent with this change, the job priorities section was amended to clarify that retraining may be used to reach each of the priorities. This bill also formally requires rehabilitation providers to inform injured workers of their rights and options under the law. Several reporting requirements are included in this bill to allow the Workers' Compensation Commission to better monitor the vending of services for injured workers.