

MAINE STATE LEGISLATURE

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STATE OF MAINE
115TH LEGISLATURE

SECOND REGULAR SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
LABOR

MAY 1992

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**ONE HUNDRED AND FIFTEENTH LEGISLATURE
SECOND REGULAR SESSION**

**JOINT STANDING COMMITTEE
BILL SUMMARIES**

MAY 1992

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 volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H-584 or S-222), together with the sponsor for floor amendments. Final action on each bill is listed to the far right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	Chapter # of enacted Public Law
P&S XXX	Chapter # of enacted Private & Special Law
RESOLVE XXX	Chapter # of enacted Resolve
CON RES XXX	Chapter # of Constitutional Resolution passed by both Houses
EMERGENCY	Enacted law takes effect sooner than 90 days
CARRIED OVER	Bill carried over to Special Session
ONTP	Ought Not to Pass report accepted
LVWD	Leave to Withdraw report accepted
INDEF PP	Bill Indefinitely Postponed
FAILED EMERGENCY ENACTMENT	Emergency bill failed to get 2/3 vote
DIED BETWEEN BODIES	House and Senate disagree; bill died
CONF CMTE UNABLE TO AGREE	Committee of Conference formed but unable to agree
VETO SUSTAINED	Legislature filed to override Governor's Veto
UNSIGNED	Not signed by Governor within 10 days
DIED ON ADJOURNMENT	Action incomplete when session ended; bill died

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

SPONSOR(S)

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COMMITTEE REPORT**AMENDMENTS ADOPTED****SUMMARY**

This bill contained the following changes to the workers' compensation system. It allowed up to a 20% upward deviation in workers' compensation rates by the insurer on a risk-by-risk basis, but the higher rate could not be used to deny eligibility for the Safety Pool. It changed the base year for wages for a seasonal worker from "prior calendar year" to "immediately preceding year". It required objective medical evidence of an injury before an employee is entitled to benefits. It limited compensation in combined effects cases so that the employer is liable for only that portion of an incapacity or treatment caused by a work-related injury. It changed the date up to which informal payment without prejudice may be made from "the convening of the formal hearing" to "the commissioner's decision following a formal hearing". It required the employer to give notice to the employee of a reduction in benefits as well as discontinuance of benefits after the 60-day period but before the commissioner's decision. It froze maximum fee schedules for health care providers at the January 1992 level for the year 1993.

This bill also repealed the section on compensation for total incapacity and created a new distinction between temporary total and permanent total incapacities. Temporary total benefits (down from 2/3 to 60% of average gross weekly wages) would be payable for a maximum of 156 weeks (3 years), after which an injured worker who is not permanently and totally incapacitated, but who continues to have a compensable incapacity, is compensated for the partial incapacity. Employees able to perform full-time work in the state labor market, regardless of the availability of work in the employee's community, would be ineligible for total incapacity benefits but may be eligible for partial incapacity benefits. Permanently and totally incapacitated workers would receive an annual adjustment equal to the change in state average weekly wage or 5%, whichever is less. Certain severe injuries were conclusively presumed to result in total permanent incapacity. The bill also enacted new partial incapacity provisions at a 60% benefit level with a maximum of 260 weeks of partial incapacity benefits or a total of 364 weeks of partial and total incapacity benefits. If a permanent loss of at least 75% of specified body parts is established, benefits may be extended up to 520 weeks. It repealed a provision requiring the employer to pay actual moving expenses up to \$1000 for employees injured after the effective date of the section. It established standards for determining the degree of incapacity using availability of suitable work within the employee's community during the first 40 weeks and after 40 weeks, availability of work within the state.

It provided that if an employee who has received a lump-sum settlement suffers another injury, the benefits for the subsequent injury must be reduced to the extent necessary to avoid duplicative payment of benefits. All settlement agreements must expressly allocate wage loss, medical services, permanent impairment or other benefits. It required that physicians who have examined the employee in the past year at the request of an insurance company "with respect to the injury for which benefits are being claimed" are disqualified from serving as independent medical examiners. It provided that a commissioner who disapproves a proposed lump-sum settlement of a case must be excluded from subsequent formal hearings in the case. It clarified that the 2-year period for the filing of a claim by an employee begins at the date of injury or the date of payment of benefits in cases in which a first report of injury is not required. It disallowed claims for injuries previously resolved with a final settlement in another jurisdiction. It provided that, under the automatic discontinuance or reduction procedures, an employee requesting a hearing more than 21 days after the discontinuance or reduction was not entitled to the hearing on an expedited basis.

This bill established the Workers' Compensation Commission within the Judicial Department. The 11 members would be appointed by the Governor subject to confirmation by the Legislature. It provided for appeals to (at least) one Appellate Division Judge appointed by the Governor and confirmed by the Legislature. No appeal is permitted to correct manifest error or injustice. It established the Office of Employee Assistants in the Department of Labor, rather than in the Workers' Compensation Commission, and repealed the provisions establishing the Office of Employment Rehabilitation.

The bill made section 65 (covering medical examinations of employees, acceptance of treatment, and restrictions on employers right to send employee to various providers) applicable to all actions, dispositions and proceedings after the effective date of the section. It also made the independent medical examiner provisions and the automatic discontinuance and reduction procedures applicable to all actions, dispositions and proceedings after the effective date of the section.