## MAINE STATE LEGISLATURE

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## STATE OF MAINE 119TH LEGISLATURE

### FIRST REGULAR SESSION

# BILL SUMMARIES JOINT STANDING COMMITTEE ON LABOR

## **JULY 1999**

MEMBERS: Sen. Neria R. Douglass, Chair Sen. Lloyd P. LaFountain, III Sen. S. Peter Mills

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### ONE HUNDRED NINETEENTH LEGISLATURE FIRST REGULAR SESSION

## Summary Of Legislation Before The Joint Standing and Select Committees August 1999

We are pleased to provide this summary of all bills that were considered by the Joint Standing and Select Committees of the Maine Legislature this past session. The document is a compilation of bill summaries which describe each bill and relevant amendments, as well as the final action taken. Also included are statistical summaries of bill activity this session for the Legislature and each of its joint standing and select committees.

The document is organized for convenient reference to information on bills considered by the committees. It is organized by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, <u>History and Final Disposition of Legislative Documents</u>, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

CARRIED OVER	Bill carried over to Second Regular Session
CONF CMTE UNABLE TO AGREE	
DIED BETWEEN BODIES	House & Senate disagree; bill died
DIED IN CONCURRENCE	One body accepts ONTP report; the other indefinitely postpones the bill
	Action incomplete when session ended; bill died
EMERGENCY	Enacted law takes effect sooner than 90 days
	Bill failed to get vote required for enactment or final pasage
NOT PROPERLY BEFORE THE BODY	
INDEF PP	Bill Indefinitely Postponed
ONTP	Bill Indefinitely PostponedOught Not To Pass report accepted
OTP ND	
<i>OTP ND/NT</i>	
P&S XXX	Chapter # of enacted Private & Special Law
PUBLIC XXX	
RESOLVE XXX	
	Bill held by Governor
VETO SUSTAINED	Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

## An Act to Eliminate the Requirement for an Independent Medical Examination under Certain Circumstances

**ONTP** 

Sponsor(s) Committee Report Amendments Adopted

ONTP

LD 584 proposed to remove the requirement that an employee undergo an independent medical examination under the workers' compensation laws if a medical specialist's report is made available to the parties within a reasonable period of time after an independent medical examination is requested or ordered.

#### LD 586 An Act to Abolish Apportionment in Workers' Compensation Claims CARRIED OVER

<u>Sponsor(s)</u> <u>Committee Report</u> <u>Amendments Adopted</u>

MILLS

LD 586 proposes to adopt the "last injury rule" for determining who is responsible for paying workers' compensation benefits when an employee suffers two or more consecutive work-related injuries. Current law requires the apportionment of liability among insurers providing coverage during any of the injuries; LD 586 proposes to make the last insurer responsible for the entire injury.

This bill has been carried over to the Second Regular Session of the 119th Legislature.

#### LD 646 An Act to Reform the Unemployment Compensation System

**ONTP** 

 Sponsor(s)
 Committee Report
 Amendments Adopted

 MILLS
 ONTP

LD 646 proposed to make several changes in the state unemployment compensation laws to improve the solvency of the unemployment compensation fund, including raising the taxable wage base from \$7,000 to \$12,000, lowering the cap on benefits, providing for two-quarter averaging of wages used to determine the benefit, and use of an array system to determine the tax rate that an employer pays.

LD 670

An Act to Require That Workers' Compensation Coverage Be Equitably Applied to the Timber Industry

PUBLIC 364

Sponsor(s)	Committee Report		Amendments Adopted
NUTTING J	OTP-AM	MAJ	S-269
HATCH	OTP-AM	MIN	

LD 670 proposed to require all persons engaged in harvesting forest products to carry workers' compensation insurance, except an individual who contracts directly with the landowner to harvest the wood and who performs all of the wood harvesting alone or with certain closely-related family members.

**Committee Amendment "A" (S-269)** was the majority report of the committee. It proposed to specify that all persons engaged in harvesting forest products are "employees" under the workers' compensation law, except a person who obtains a certificate of independent status or a predetermination of independent contractor status and who contracts

directly with the landowner and performs all the work alone, with family members, with others who are covered by a workers' compensation policy or with a partner who does not control that person. The family members, partner and persons covered by policies working with the person who contracts directly with the landowner would also be excluded from the definition of employee. The amendment proposed that persons who are considered employees must be covered by an employer's policy or obtain personal workers' compensation coverage.

The amendment also proposed that a landowner who contracts with a person to harvest forest products would be protected from liability if the landowner obtained from the contractor a certificate of independent status, a predetermination of independent contractor status or a certificate showing that the contractor was insured under a workers' compensation policy. In addition to issuing predeterminations of independent contractor status on a contract-specific basis, the Workers' Compensation Board would be authorized to issue an annual certificate of independent status to a contractor based on similar factors to those examined in issuing the predetermination.

**Committee Amendment "B" (S-270),** the minority report of the committee, proposed to replace the bill. It provided for an annual predetermination process for persons who harvest forest products and provided for landowner immunity from liability for persons who receive a copy of the harvester's predetermination. (not adopted)

#### Enacted law summary

Public Law 1999, chapter 364 specifies that all persons engaged in harvesting forest products are "employees" under the workers' compensation law, except a person who obtains a certificate of independent status or a predetermination of independent contractor status and who contracts directly with the landowner and performs all the work alone, with family members, with others who are covered by a workers' compensation policy or with a partner who does not control that person. The family members, partner and persons covered by policies working with the person who contracts directly with the landowner are also excluded from the definition of employees. Persons who are considered employees must be covered by an employer's policy or obtain personal workers' compensation coverage.

A landowner who contracts with a person to harvest forest products is protected from liability if the landowner obtains from the contractor a certificate of independent status, a predetermination of independent contractor status or a certificate showing that the contractor is insured under a workers' compensation policy. In addition to issuing predeterminations of independent contractor status on a contract-specific basis, the Workers' Compensation Board may issue an annual certificate of independent status to a contractor based on similar factors to those examined in issuing the predetermination.

## LD 702 An Act to Revise the Fact-finding Process under the Public Employees DIED BETWEEN Labor Relations Laws BODIES

Sponsor(s)	Committee Report		Amendments Adopted
MARTIN	ONTP	MAJ	
	OTP-AM	MIN	

LD 702 proposed that facts found by unanimous vote of a three member fact-finding panel are binding on the parties in future proceedings under the various public employees labor relations laws, including the law governing municipal, state, judicial and University of Maine System employees.

**Committee Amendment "A" (H-352),** the minority report of the committee, proposed to clarify the intent of the bill by providing that the unanimous recommendations of the panel are binding, not the findings of fact. (not adopted)