

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Labor*

May 2002

Staff:

*Deborah C. Friedman, Senior Analyst
David C. Elliott, Principal Analyst*

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*

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Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

120th Legislature
Second Regular Session

Summary Of Legislation Before The Joint Standing Committees
May 2002

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number.

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:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PASSED..... Joint Order passed in both bodies
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... 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 Second Regular Session (unless otherwise specified in a particular law) is July 25, 2002.

Patrick T. Norton, Interim Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Labor

law subjects the person to a civil forfeiture of between \$50 and \$100 for each day of noncompliance. The law also requires the Department of Labor to convene an interagency working group, including the Workers' Compensation Board, to review efforts to enforce the workers' compensation coverage requirement in the forest products harvesting industry, to develop accident-reduction systems in that industry, to consider ways to enhance data collection to assist in reducing accidents and to consider how enforcement and accident prevention can be of benefit in other industries and work places. The law requires the Department to submit its findings and recommendations to the joint standing committee of the Legislature having jurisdiction over labor matters and the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters by January 15, 2003. The committees are authorized to report out legislation in response to the report.

LD 2098 **An Act to Protect Workers from Unilateral Imposition of Random or Arbitrary Drug Testing** **PUBLIC 706**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| DUNLAP | OTP-AM MAJ | H-887 |
| CATHCART | ONTP MIN | S-537 EDMONDS |

LD 2098 proposed to eliminate the provision in current law that allows random drug testing without cause to be a part of a labor agreement.

Committee Amendment "A" (H-887) proposed to replace the bill. It proposed to allow for random or arbitrary drug testing to be imposed through the collective bargaining process. However, it proposed to clarify that such a program can not be imposed by unilateral imposition of the employer's last best offer, for example, when bargaining reaches an impasse.

Senate Amendment "A" to Committee Amendment "A" (S-537) proposed to strike the emergency preamble and clause.

Enacted law summary

Public Law 2001, chapter 706 amends the law governing random substance abuse testing in the workplace. Chapter 706 provides that an employer that chooses to implement a random testing program through collective bargaining may not implement such a program through implementation of the employer's last best offer when bargaining reaches an impasse.

LD 2108 **An Act to Amend the Maine Overtime Pay Provisions Regarding Certain Drivers and Drivers' Helpers** **PUBLIC 628
EMERGENCY**

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| BUNKER | OTP-AM | H-999 |
| TURNER | | |

LD 2108 proposed to amend Maine overtime law, retroactive to January 1, 1995, to exempt interstate truck drivers and other employees of interstate trucking companies who are regulated by the federal Motor Carrier Act from the requirement to pay time-and-a-half for overtime hours.

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Committee Amendment "A" (H-999) proposed to amend the law retroactive to January 1, 1995 to exempt certain drivers and driver's helpers from the overtime law. It also proposed to amend the law effective September 1, 2003 to exempt certain drivers and driver's helpers only if they are paid wages equivalent to overtime pay wages. The amendment proposed to exempt cases pending on March 20, 2002 from the retroactive changes.

Enacted law summary

Public Law 2001, chapter 628 provides, retroactive to January 1, 1995, that interstate truck drivers and driver's helpers whose hours are regulated by the federal Motor Carrier Act are exempt from Maine's overtime law. However, beginning September 1, 2003, most such drivers and driver's helpers will be exempt from the overtime law only if they receive overtime pay reasonably equivalent to the pay that would be required under Maine's overtime law. The Department of Labor may adopt major substantive rules setting forth standards for determining whether pay is "reasonably equivalent." Also retroactive to January 1, 1995, drivers and driver's helpers who are governed by a collective bargaining agreement that regulates such pay, and those who are employed by an entity under contract with the federal government that dictates pay are exempt from the Maine law, regardless of whether they meet the "reasonably equivalent" standard. Cases pending on March 20, 2002 are not affected by the new law.

Public Law 2001, chapter 628 was enacted as an emergency measure, effective April 5, 2002.

LD 2133

An Act to Implement the Recommendations of the Workers' Compensation Board Governance Study

DIED BETWEEN BODIES

| <u>Sponsor(s)</u> | <u>Committee Report</u> | <u>Amendments Adopted</u> |
|-------------------|-------------------------|---------------------------|
| EDMONDS | ONTP MAJ | |
| BUNKER | OTP-AM MIN | |

LD 2133 proposed to implement the recommendations of a consultant's report on administration of the workers' compensation system, submitted pursuant to Resolve 2001, chapter 49. The bill proposed to create the Workers' Compensation Agency and divide the responsibilities of the current Workers' Compensation Board among the new agency and the board. The agency would perform administrative functions and would be managed by an Executive Director, appointed by the Governor, subject to confirmation by the Legislature. The board would be composed of 9 members appointed by the Governor, subject to confirmation by the Legislature: 3 labor members, 3 management members and 3 public members. The board would continue to provide general oversight of the system and would continue to set general policy and adopt governing rules. The bill proposed to give the Executive Director greater authority to manage staff of the agency.

The bill also proposed to change the method of assessing insurers to pay the costs of administering the system. Instead of requiring each insurer to assess and remit a specific percentage of the premium collected in the current fiscal year, the bill proposed that each insurer pay a specific amount calculated as a percentage of the previous year's premium. The assessment would not appear as a separate charge on premium notices, but would be included in the rates charged by the insurer.

Committee Amendment "A" (S-486), which was not adopted, was the minority report of the committee. It proposed to specify that the Workers' Compensation Board, in carrying out its duties, must focus on efficiency, worker safety, prompt dispute resolution and reduction in the cost of the workers' compensation system relative to