

# MAINE STATE LEGISLATURE

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*State Of Maine  
121st Legislature*

*First Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Labor*

*July 2003*

**Members:**

*Sen. Betheda G. Edmonds, Chair  
Sen. Steven S. Stanley  
Sen. Kenneth Blais*

*Rep. William J. Smith, Chair  
Rep. Deborah J. Hutton  
Rep. Paul R. Hatch  
Rep. John L. Patrick  
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# Maine State Legislature



## Office Of Policy And Legal Analysis Office Of Fiscal And Program Review

### 121st Maine Legislature First Regular Session

#### Summary Of Legislation Before The Joint Standing Committees

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

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. 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, History and Final Disposition of Legislative Documents, 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](http://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:

<i>CARRIED OVER PURSUANT TO HP 1212</i> .....	<i>Bills carried over to the 2<sup>nd</sup> Regular Session</i>
<i>CON RES XXX</i> .....	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i> .....	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i> .....	<i>House &amp; Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i> .....	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i> .....	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i> .....	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i> .....	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i> .....	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i> .....	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>NOT PROPERLY BEFORE THE BODY</i> .....	<i>Ruled out of order by the presiding officers; bill died</i>
<i>INDEF PP</i> .....	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i> .....	<i>Ought Not To Pass report accepted</i>
<i>OTP-ND</i> .....	<i>Committee report Ought To Pass In New Draft</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</i>
<i>PASSED</i> .....	<i>Joint Order passed in both bodies</i>
<i>PUBLIC XXX</i> .....	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i> .....	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i> .....	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i> .....	<i>Legislature failed to override Governor's Veto</i>

Please note that the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 13, 2003.

**David C. Elliott, Director**  
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## *Joint Standing Committee on Labor*

employer, cannot be sued under certain federal employment laws unless the State consents to be sued. Instead of waiving immunity to allow state employees to sue the State under federal labor law, PL 2003, chapter 423 amends state labor laws to provide remedies to state employees under state law.

It includes state employees, except for legislative employees, in the law requiring employers to pay time-and-a-half for overtime hours worked. Currently all public employees are exempt from that requirement. It amends the remedy provision so that state employees who are not paid the appropriate overtime wage recover only the amount of unpaid wages, not liquidated damages or attorney's fees as provided for private sector employees. It provides for a 3-year statute of limitations for violations of the minimum wage law for state employees if the violation of the law is willful. Compensatory time may in some instances be substituted for overtime pay, when allowed by federal law.

PL 2003, chapter 423 amends the workers' compensation law to provide that state employees who are barred from suing the State under admiralty law or certain federal laws because of sovereign immunity are not excluded from coverage under the state workers' compensation law.

**LD 1627**

**Resolve, Regarding Legislative Review of Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards**

**RESOLVE 74  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM    MAJ	H-556
	OTP-AM    MIN	

LD 1627 proposed to authorize the Department of Labor to finally adopt a major substantive rule: Chapter 14: Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Drivers Helpers.

**Committee Amendment "B" (H-556)**, the minority report of the Joint Standing Committee on Labor, proposed to authorize final adoption of the rule relating to alternative methods of payment for truck drivers and drivers helpers. It proposed to require the Department of Labor to seek an Attorney General's opinion on the same issue as provided in the majority committee report and to report the results of the opinion and the department's recommendations in response to the opinion to the Joint Standing Committee on Labor.

**Committee Amendment "A" (H-555)**, the majority report of the Joint Standing Committee on Labor, proposed that the Department of Labor is not authorized to finally adopt its rule, Chapter 14. It proposed to require the department to seek a legal opinion from the Attorney General regarding the Department's ability to consider work performed outside the State in regulating pay for work performed within the State, e.g., in counting hours worked outside the State in considering whether a person is entitled to overtime pay for work performed within the State. It proposed to require the Department to meet with the Labor Committee to discuss the Attorney General's opinion and the department's recommendations relating to the opinion. Finally, it proposed to require the department to resubmit rules to the Second Regular Session of the 121st Legislature. This committee amendment was not adopted.

### *Enacted Law Summary*

Resolve 2003, chapter 74 authorizes final adoption of Department of Labor Rule Chapter 14, which sets forth an alternative method of payment for overtime worked by certain trucker drivers and drivers' helpers, allowing

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employers to pay on a basis other than hours worked, e.g., by miles driven. The Resolve also requires the Department of Labor to seek an opinion of the Attorney General regarding the Department's ability to take into account the number of hours worked outside the State in determining the required amount of pay for work conducted within the State. The Department must meet with the Labor Committee in September, 2003 to discuss the Attorney General's opinion and the Department's response to the opinion.

Resolve 2003, chapter 74 was finally passed as an emergency measure, effective June 16, 2003.