

MAINE STATE LEGISLATURE

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*State Of Maine
122nd Legislature*

*First Regular Session and
First Special Session*

Bill Summaries

*Joint Standing Committee
on
Labor*

August 2005

Members:

*Sen. Ethan Strimling, Chair
Sen. Philip L. Bartlett, II
Sen. Lois A. Snowe-Mello*

*Rep. William J. Smith, Chair
Rep. John L. Tuttle, Jr.
Rep. Deborah J. Hutton
Rep. Troy D. Jackson
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Rep. Philip A. Cressey, Jr.
Rep. Darren M. Hall
Rep. James M. Hamper*

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Maine State Legislature

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122nd Legislature
First Regular Session and First Special Session

Summary of Legislation Considered by the Joint Standing Committees
August 2005

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 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 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. A subject index for each committee is included immediately before the bill summaries for that committee, and a numerical index by LD number is included 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).

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
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
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 First Regular Session (unless otherwise specified in a particular law) is June 29, 2005; and for non-emergency legislation enacted in the First Special Session is September 17, 2005.

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LD 1353

An Act To Allow Certain School Employees To Collect Unemployment

ONTP

| | | | | |
|------------------------------|--|---------------------------------|--|---------------------------|
| <u>Sponsor(s)</u> JACKSON | | <u>Committee Report</u> ONTP | | <u>Amendments Adopted</u> |
|------------------------------|--|---------------------------------|--|---------------------------|

LD 1353 proposed to make a bus driver or janitorial staff worker in a public school eligible to collect unemployment benefits in between 2 academic years, even if the driver or staff worker has received written assurance that the driver or staff worker will be employed by the school in that same position the 2nd academic year.

LD 1361

An Act To Refine and Study Substance Abuse Testing Procedures and Treatment

PUBLIC 443

| | | | | |
|--|--|-----------------------------------|--|--|
| <u>Sponsor(s)</u> PERRY A MARTIN | | <u>Committee Report</u> OTP-AM | | <u>Amendments Adopted</u> H-428 S-386 GAGNON |
|--|--|-----------------------------------|--|--|

LD 1361 proposed to do the following:

1. Allow for post-accident testing when death, serious injury or substantial property damage has occurred, separate and apart from probable cause or random testing;
2. Permit the employer to require, request or suggest subsequent follow-up testing of an employee returning to work during the 18 months after the date of the employee's return to work;
3. Allow for point-of-collection screening tests of employees. Confirmation of positive tests would still be required in the existing manner;
4. Amend the exclusion of a single work-related accident as probable cause for testing when circumstances surrounding a single work-related accident may give rise to probable cause to test, even if the harm from the accident is not so severe as to warrant general post-accident testing;
5. Set reasonable limits on the currently open-ended shifting of uninsured treatment or rehabilitation costs, based on an employee's length of service and incorporates changes recognizing that outpatient treatment is often the recommended approach;
6. Permit a program of follow-up testing after return to work following a confirmed positive test, as recommended by a rehabilitation or treatment provider. The statutes currently permit only a single follow-up test in the period between 90 days and one year after the employee's positive prior test. This change would permit a program of follow-up testing in the 12 months following a confirmed positive test, under circumstances similar to those now used for drivers of commercial motor vehicles under the Federal Motor Carrier Safety Regulations; and
7. Amend the provisions requiring return of an employee with a confirmed positive test result to a safety-sensitive position and insulating the employee from any financial consequences. The existing law requires

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that, if due to a perceived safety hazard an employee is not immediately returned to the safety-sensitive position, the employer must nonetheless pay the rate of the safety-sensitive job even though that job is not being performed. This change would provide employers greater flexibility to temporarily reassign such persons to other duties at the rates of pay corresponding to the new positions. As soon as the employee's rehabilitation or treatment provider concludes the unreasonable safety hazard has abated, the employee must be restored to full pay.

Committee Amendment "A" (H-428) proposed to replace the bill. The amendment proposed to specify that the results of a point of collection substance abuse screening test must be provided to the employee who is the subject of the test immediately, regardless of the preliminary result, and may not be released to the employer until after results of a confirmation test have been determined or until after the time it would have taken for results of a confirmation test to be determined if one had been performed. The amendment further proposed to specify that the results of a confirmation test must be provided immediately to both the employee and employer.

Additionally, the amendment proposed to direct the Department of Labor to establish a task force on substance abuse testing and treatment and details the proposed duties, membership and reporting obligations of the task force.

Senate Amendment "A" to Committee Amendment "A" (S-386) proposed to bring the bill into conformity with the Joint Rules and Standards for Legislative Studies adopted by the Legislative Council.

Enacted law summary

Public Law 2005, chapter 443 specifies that the results of a point of collection substance abuse screening test must be provided to the employee who is the subject of the test immediately, regardless of the preliminary result. Chapter 443 also states that the results of a point of collection screening test may not be released to the employer until after results of a confirmation test have been determined or until after the time it would have taken for results of a confirmation test to be determined if one had been performed. The law further specifies that the results of a confirmation test must be provided immediately to both the employee and employer.

Additionally, chapter 443 directs the Department of Labor to establish a task force on substance abuse testing and treatment and details the duties, membership and reporting obligations of the task force.

LD 1384

An Act To Assist Businesses To Retain Seasonal Employees and Reduce the Burden on the Bureau of Unemployment Compensation

ONTP

Sponsor(s)
BISHOP
DOW

Committee Report
ONTP

Amendments Adopted

LD 1384 proposed to allow an employer to lay off an employee for up to 8 weeks without the employee having to meet the current job search requirements, better enabling a seasonal employer to retain trained employees while recapturing a portion of the cost of the benefits with a higher rate due to the employer's experience rating record. Current Department of Labor rules waive the work search requirement for unemployment benefits for a laid off employee if the employer gives the employee a recall notice guaranteeing that the employee will be rehired within 6 weeks, saving the employee and the Department of Labor, Bureau of Unemployment Compensation the burden