

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
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Rep. Herbert E. Clark
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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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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

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of the employee's unnecessarily having to look for other work and report weekly on that search to the bureau. Current law also bases the unemployment contribution for employers on the individual employer's past experience rating record.

LD 1398 **An Act To Align Federal and State Child Labor Laws** **ONTP**

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

LD 1398 proposed to direct the Department of Labor, Bureau of Labor Standards to adopt rules that conform to the federal Fair Labor Standards Act of 1938 and accompanying regulations that govern employment of minors under 18 years of age, and to prohibit employment of minors except in accordance with these rules. The bill also proposed to direct the bureau to readopt the rule prohibiting minors from being employed in a place that has nude entertainment and to specify that these rules are routine technical rules.

LD 1410 **An Act To Require That the Maine Unemployment Insurance Commission Maintain Its Principal Office in the Augusta Area** **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TUTTLE SNOWE-MELLO	ONTP	

LD 1410 proposed to require that the Maine Unemployment Insurance Commission maintain its principal office in the Augusta area.

LD 1413 **An Act To Conform the Remedies under the Maine Family Medical Leave Requirements with Those Available under Federal Law** **PUBLIC 228**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER-SIMPS	OTP-AM	H-348

LD 1413 proposed to expand the remedies available to employees alleging violations of the Maine family medical leave requirements to equal those available under federal law. These remedies include back pay, interest, attorney's fees and costs, liquidated double damages and equitable remedies.

Committee Amendment "A" (H-348) proposed to remove the burden from an employer to prove that the employer has acted in good faith in order to avoid double damages, and instead to place the burden on the employee to prove that the violation was willful for the employee to recover double damages.

Enacted law summary