

# MAINE STATE LEGISLATURE

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*State Of Maine  
122nd Legislature*

*Second Regular Session*

*Bill Summaries*

*Joint Standing Committee  
on  
Labor*

*July 2006*

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# Maine State Legislature



## Office of Policy and Legal Analysis Office of Fiscal and Program Review

### 122nd Maine Legislature Second 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 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/billsumm.htm](http://www.state.me.us/legis/opla/billsumm.htm)).

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
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 (Pocket Veto).....	Bill held by Governor
VETO SUSTAINED.....	Legislature failed to override Governor's Veto

Please note that the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is August 23, 2006.

## Joint Standing Committee on Labor

LD 1847

**Resolve, To Require the Department of Labor, in Consultation with Interested Parties, To Examine the Laws and Practices Regarding the Definition of “Employment” for Purposes of Unemployment Compensation**

RESOLVE 191

<u>Sponsor(s)</u> MILLS J		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-937
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LD 1847 proposed to alter the test (known as the “ABC” test) used to determine whether services performed by an individual for remuneration are deemed to be employment for purposes of the chapter of the statutes governing unemployment compensation. Current law provides that services performed are employment unless and until all three of the prongs of the test are met. The bill proposed to retain the requirement that the first prong be met – that the individual has been and will continue to be free from control or direction over the performance of the services, both under the individual’s contract of service and in fact. The bill then proposed to take the remaining two prongs and, in effect, convert them into three options such that if any one of them is met (together with the first prong) then the services performed would not be deemed to be employment. The three options are:

1. The service is outside the usual course of the business for which that service is performed; or
2. The service is performed outside of all the places of business of the enterprise for which that service is performed; or
3. The individual is customarily engaged in an independently established trade, occupation, profession or business.

**Committee Amendment “B” (H-937)** proposed to strike the bill and replace it with a resolve. The Resolve would require the Department of Labor to conduct a study of the laws and practices regarding the definition of employment for purposes of unemployment compensation. The bill proposed to require the department to call upon interested parties in conducting its study, and to submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters with its findings, recommendations and any proposed implementing legislation. This amendment was not adopted.

**Committee Amendment “A” (H-839)**, the majority report of the Joint Standing Committee on Labor, proposed to strike the bill and replace it with a resolve. The Resolve would require the Department of Labor to conduct a study of the laws and practices regarding the definition of employment for purposes of unemployment compensation. The bill proposed to require the department to call upon interested parties in conducting its study, and to submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters with its findings, recommendations and any proposed implementing legislation. This amendment was not adopted.

### *Enacted law summary*

Resolve 2005, chapter 191 requires the Department of Labor to conduct a study of the laws and practices regarding the definition of “employment” for purposes of unemployment compensation. The department must call upon interested parties in conducting its study and submit a report to the joint standing committee of the Legislature having jurisdiction over labor matters with its findings, recommendations and any proposed implementing legislation.