

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
124<sup>TH</sup> LEGISLATURE  
SECOND REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the Second Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

**JOINT STANDING COMMITTEE ON LABOR**

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the Second Regular Session of the 124<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter 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:

<i>CARRIED OVER</i> .....	<i>Carried over to a subsequent session of the Legislature</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 HOUSES</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; bill died</i>
<i>ONTP (or Accepted ONTP report)</i> .....	<i>Ought Not To Pass report accepted; bill died</i>
<i>P&amp;S XXX</i> .....	<i>Chapter # of enacted Private &amp; Special Law</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>

The effective date for non-emergency legislation enacted in the Second Regular Session of the 124<sup>th</sup> Legislature is Monday, July 12, 2010. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

# Joint Standing Committee on Labor

LD 1565

## An Act To Amend the Laws Governing the Misclassification of Construction Workers

PUBLIC 649

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MARTIN J L JACKSON	OTP-AM MAJ ONTP MIN	H-746 H-826 MARTIN J L

This bill authorizes the Executive Director of the Workers' Compensation Board to issue a stop-work order if a hiring agent or construction subcontractor has knowingly misrepresented one or more employees as independent contractors, knowingly failed to provide a workers' compensation insurance policy or knowingly provided false, incomplete or misleading information to the board concerning the number of employees.

The stop-work order takes effect when served upon the hiring agent or construction subcontractor and requires the cessation of all business operations. The stop-work order remains in effect until the executive director issues a release upon finding the hiring agent or construction subcontractor has come into compliance and paid any penalty assessed. The stop-work order applies to any successor firm, corporation, or partnership of the hiring agent or construction subcontractor. A hiring agent or construction subcontractor who is subject to a stop-work order may apply to the executive director within 10 days of issuance for a hearing. The hearing and a decision must be rendered within 48 hours of the application.

This bill also prohibits that hiring agent or construction subcontractor from performing work on a public building or other public works for a period of three years.

### Committee Amendment "A" (H-746)

This amendment, which is the majority report of the committee, authorizes the Executive Director of the Workers' Compensation Board or the executive director's designee, to issue a stop-work order after a hearing if a hiring agent or construction subcontractor misrepresented one or more employees as independent contractors, failed to provide a workers' compensation insurance policy or provided false, incomplete or misleading information to the Workers' Compensation Board concerning the number of employees. The executive director must give the hiring agent or construction subcontractor 48 hours' notice before the stop-work order hearing. The amendment also includes an appropriations and allocations section to cover enforcement.

### House Amendment "C" To Committee Amendment "A" (H-826)

This amendment authorizes the Executive Director of the Workers' Compensation Board or the executive director's designee to stay a stop-work order if a hiring agent or construction subcontractor provides evidence that the hiring agent or subcontractor has complied with the provisions of the Maine Workers' Compensation Act of 1992. It also extends the notice of hearing provision from 48 hours to three business days.

This amendment protects an issuer of surety bonds from liability when a payment or a performance bond is required of a hiring agent or construction subcontractor and that hiring agent or construction subcontractor is subject to a stop-work order from the Executive Director of the Workers' Compensation Board.

This amendment also defines what will be considered a knowing violation of the provision requiring that workers' compensation insurance be obtained for the purpose of issuing a stop-work order.

### Enacted Law Summary

Public Law 2009, chapter 649 authorizes the Executive Director of the Workers' Compensation Board or the

## *Joint Standing Committee on Labor*

executive director's designee, after a hearing, to issue a stop-work order to a hiring agent or construction subcontractor who knowingly failed to provide workers' compensation insurance for employees. The hiring agent or construction subcontractor must receive at least three business days' notice of a hearing regarding a stop-work order. The executive director or the executive director's designee shall stay a stop-work order if a hiring agent or construction subcontractor provides evidence that the hiring agent or construction subcontractor has complied with the provisions of the Maine Workers' Compensation Act of 1992. A stop-work order remains in effect until the executive director or the executive director's designee issues an order releasing the stop-work order upon finding of compliance and the hiring agent or construction subcontractor has paid any penalty assessed or has entered into a penalty payment agreement with the Workers' Compensation Board. Any stop-work order issued applies to any successor firm, corporation or partnership of the hiring agent or construction subcontractor.

The law protects an issuer of surety bonds from liability when a payment or a performance bond is required of a hiring agent or construction subcontractor and that hiring agent or construction subcontractor is subject to a stop-work order from the Executive Director of the Workers' Compensation Board.

The law defines a knowing violation of the provision requiring that workers' compensation insurance be obtained for the purpose of issuing a stop-work order.

Positions to enhance the enforcement of laws prohibiting misclassification of workers must be funded from the Workers' Compensation Board's reserve account.

### **LD 1566    An Act Relating to the Membership of the Workers' Compensation Board**

**PUBLIC 640**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BUTTERFIELD JACKSON	OTP-AM	H-659 S-399 BRYANT B

This bill clarifies the current restrictions on Workers' Compensation Board membership related to lobbying and being a service provider by providing that Workers' Compensation Board members may lobby on behalf of the board and by defining the term "service provider" for purposes of being a member of the board.

#### **Committee Amendment "A" (H-659)**

This amendment replaces the bill and clarifies the current restrictions on the Workers' Compensation Board membership with regard to any possible conflict of interest between a member and an issue in front of the board. It cites the conflict of interest provisions found in the Maine Workers' Compensation Act of 1992, which refers to the disqualification of executive employees from participating in matters that appear to be a conflict of interest by disclosure or by abstention found in the Maine Revised Statutes, Title 5, section 18.

#### **Senate Amendment "A" To Committee Amendment "A" (S-399)**

This amendment, like the bill, relates to the membership of the Workers' Compensation Board. Current law restricts the term of a member representing management or labor to two full terms. This amendment repeals that restriction.

#### **Enacted Law Summary**

Public Law 2009, chapter 640 clarifies the current restrictions on the Workers' Compensation Board membership with regard to any possible conflict of interest between a member and an issue in front of the board. It cites the conflict of interest provisions found in the Maine Workers' Compensation Act of 1992, which refers to the disqualification of executive employees from participating in matters that appear to be a conflict of interest by