

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
125<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON LABOR, COMMERCE,  
RESEARCH AND ECONOMIC DEVELOPMENT**

July 2011

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**STAFF:**

CAROLYN RUSSO, LEGISLATIVE ANALYST  
NATALIE HAYNES, LEGISLATIVE ANALYST  
OFFICE OF POLICY AND LEGAL ANALYSIS  
13 STATE HOUSE STATION  
AUGUSTA, ME 04333  
(207) 287-1670

\* REPLACED LATE IN THE SESSION BY REP. ANDRE E. CUSHING III

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND  
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

*CARRIED OVER* ..... carried over to a subsequent session of the Legislature  
*CON RES XXX*..... chapter # of constitutional resolution passed by both houses  
*CONF CMTE UNABLE TO AGREE*..... Committee of Conference unable to agree; legislation died  
*DIED BETWEEN HOUSES*..... House & Senate disagreed; legislation died  
*DIED IN CONCURRENCE*..... defeated in each house, but on different motions; legislation died  
*DIED ON ADJOURNMENT*..... action incomplete when session ended; legislation died  
*EMERGENCY*..... enacted law takes effect sooner than 90 days after session adjournment  
*FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE* ..... emergency failed to receive required 2/3 vote  
*FAILED, ENACTMENT or FINAL PASSAGE*..... failed to receive final majority vote  
*FAILED, MANDATE ENACTMENT* ..... legislation proposing local mandate failed required 2/3 vote  
*HELD BY GOVERNOR*..... Governor has not signed; final disposition to be determined at subsequent session  
*LEAVE TO WITHDRAW*..... sponsor's request to withdraw legislation granted  
*NOT PROPERLY BEFORE THE BODY* ..... ruled out of order by the presiding officer; legislation died  
*INDEF PP*..... indefinitely postponed; legislation died  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... ought-not-to-pass report accepted; legislation died  
*P&S XXX*..... chapter # of enacted private & special law  
*PUBLIC XXX*..... chapter # of enacted public Law  
*RESOLVE XXX*..... chapter # of finally passed resolve  
*VETO SUSTAINED*..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125<sup>th</sup> Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

## *Joint Standing Committee on Labor, Commerce, Research and Economic Development*

abuse test. The bill also requires that an employer that requires, requests or suggests that employees submit to substance abuse testing on a random or arbitrary basis must also require, request or suggest that supervisory personnel submit to a substance abuse test on a random or arbitrary basis and similarly submit to substance abuse testing on a random or arbitrary basis.

The bill also allows an employer to require, request or suggest an employee submit to substance abuse testing if the employee causes a work-related accident that results in property damage, personal injury or loss of life or a citation or summons being issued to the employee by a law enforcement officer. The bill also removes the provision stating that it is the intent of the Legislature to narrowly construe the requirement concerning random testing of an employee who works in a position where being under the influence of a substance of abuse would place the health and safety of the public or coworkers under unreasonable threat.

### **Committee Amendment "A" (H-287)**

This amendment replaces the bill. It allows an employer subject to a federally mandated substance abuse testing program to extend its United States Department of Transportation mandated program to its entire workforce and its independent contractors. It allows such employers to have the same substance abuse policy for all employees and independent contractors. The amendment directs the Department of Labor, Bureau of Labor Standards to submit a report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 15, 2012 with recommendations on simplifying and streamlining the labor laws dealing with substance abuse testing. The joint standing committee is authorized to introduce a bill related to the report to the Second Regular Session of the 125th Legislature.

### **Enacted Law Summary**

Public Law 2011, chapter 196 allows an employer subject to a federally mandated substance abuse testing program to extend its United States Department of Transportation mandated program to its entire workforce and its independent contractors. It allows such employers to have the same substance abuse policy for all employees and independent contractors. Public Law 2011, chapter 196 directs the Department of Labor, Bureau of Labor Standards to submit a report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 15, 2012 with recommendations on simplifying and streamlining the labor laws dealing with substance abuse testing. The joint standing committee is authorized to introduce a bill related to the report to the Second Regular Session of the 125th Legislature.

**LD 1244**

### **An Act Regarding Payment of Medical Fees in the Workers' Compensation System**

**PUBLIC 338**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GOODALL	OTP-AM	S-250

This bill defines "usual and customary charge" regarding payment of a health care service under the workers' compensation laws as the average charge for that health care service for the two preceding calendar quarters. For purposes of calculating the average charge, the charge of each individual rendering of a specific health care service is calculated as the sum of all reimbursements from a private, third-party payor and all payments from the patient.

### **Committee Amendment "A" (S-250)**

The amendment replaces the bill. It directs the Workers' Compensation Board to adopt rules to establish a medical fee schedule for services provided under the Maine Workers' Compensation Act of 1992 by individual health care practitioners and health care facilities based upon the Medicare payment methodologies that are the basis for most health care payment systems today. The amendment removes any reference in existing workers' compensation law to "usual and customary charge." The amendment requires an annual update of the medical billing and coding

**Joint Standing Committee on Labor, Commerce, Research and Economic Development**

systems underlying the medical fee schedule and requires a more comprehensive review of the medical fee schedule every three years beginning in 2014. It directs the executive director of the Workers' Compensation Board to obtain annually from the Maine Health Data Organization the private third-party average payment rates across all private payors and all providers in the Maine Health Data Organization's database for the most common medical services rendered under the Maine Workers' Compensation Act of 1992 during the previous year. The amendment requires the Workers' Compensation Board to complete its current medical fee rulemaking by December 31, 2011 and to report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the status of the medical fee schedule not later than February 15, 2012.

**Enacted Law Summary**

Public Law 2011, chapter 338 directs the Workers' Compensation Board to adopt rules to establish a medical fee schedule for services provided under the Maine Workers' Compensation Act of 1992 by individual health care practitioners and health care facilities based upon the Medicare payment methodologies that are the basis for most health care payment systems today. It removes any reference in existing workers' compensation law to "usual and customary charge." Public Law 2011, chapter 338 requires an annual update of the medical billing and coding systems underlying the medical fee schedule and requires a more comprehensive review of the medical fee schedule every three years beginning in 2014. It directs the executive director of the Workers' Compensation Board to obtain annually from the Maine Health Data Organization the private third-party average payment rates across all private payors and all providers in the Maine Health Data Organization's database for the most common medical services rendered under the Maine Workers' Compensation Act of 1992 during the previous year. It also requires the Workers' Compensation Board to complete its current medical fee rulemaking by December 31, 2011 and to report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development regarding the status of the medical fee schedule not later than February 15, 2012.

**LD 1253 An Act To Amend the Laws Governing the Enforcement of Statewide Uniform Building Codes**

**PUBLIC 365  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVIELLO	OTP-AM	S-210

This bill makes several changes to the laws governing the adoption, enforcement and implementation of the Maine Uniform Building and Energy Code. It allows a municipality to adopt Appendix G of the 2009 International Residential Code, or "IRC," which contains the safety fencing standards for swimming pools. It removes an archaic and vague requirement that inspections for the purpose of issuing an occupancy permit be conducted to ensure that a building is "safe from fire." The bill also expressly authorizes a municipality to review the work of a 3rd-party inspector for accuracy. The bill clarifies that appeals may be taken to either the municipal officers or a local board of appeals and that municipal employees may not take enforcement action without authorization by the employing municipality.

The bill amends the law to allow a building official to serve as a 3rd-party inspector as long as the building official is providing that service outside of the official's geographic jurisdiction as a building official. The bill directs the Department of Public Safety, Technical Building Codes and Standards Board to determine where in Maine and under what circumstances the radon and internal air quality building codes should be applied.

**Committee Amendment "A" (S-210)**

This amendment makes the following changes to the bill:

1. It adds an emergency preamble and emergency clause;