

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

STATE OF MAINE
125TH LEGISLATURE
SECOND REGULAR SESSION



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

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

June 2012

MEMBERS:

SEN. CHRISTOPHER W. RECTOR, CHAIR
SEN. THOMAS H. MARTIN, JR.
SEN. TROY DALE JACKSON

REP. KERRI L. PRESCOTT, CHAIR
REP. DANA L. DOW
REP. MELVIN NEWENDYKE
REP. AMY FERN VOLK
*REP. FREDERICK L. WINTLE
REP. JOHN L. TUTTLE, JR.
REP. TIMOTHY E. DRISCOLL
REP. PAUL E. GILBERT
REP. ROBERT B. HUNT
REP. ERIN D. HERBIG

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

STATE OF MAINE

125TH LEGISLATURE
SECOND REGULAR SESSION



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 Second Regular Session of the 125th 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.

<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; legislation died</i>
<i>DIED BETWEEN HOUSES</i>	<i>House & Senate disagreed; legislation died</i>
<i>DIED IN CONCURRENCE</i>	<i>defeated in each house, but on different motions; legislation died</i>
<i>DIED ON ADJOURNMENT</i>	<i>action incomplete when session ended; legislation died</i>
<i>EMERGENCY</i>	<i>enacted law takes effect sooner than 90 days after session adjournment</i>
<i>FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE</i>	<i>emergency failed to receive required 2/3 vote</i>
<i>FAILED, ENACTMENT or FINAL PASSAGE</i>	<i>failed to receive final majority vote</i>
<i>FAILED, MANDATE ENACTMENT</i>	<i>legislation proposing local mandate failed required 2/3 vote</i>
<i>HELD BY GOVERNOR</i>	<i>Governor has not signed; final disposition to be determined at subsequent session</i>
<i>LEAVE TO WITHDRAW</i>	<i>sponsor's request to withdraw legislation granted</i>
<i>NOT PROPERLY BEFORE THE BODY</i>	<i>ruled out of order by the presiding officer; legislation died</i>
<i>INDEF PP</i>	<i>indefinitely postponed; legislation died</i>
<i>ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X</i> ...	<i>ought-not-to-pass report accepted; legislation died</i>
<i>P&S XXX</i>	<i>chapter # of enacted private & 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>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 125th Legislature is Thursday, August 30, 2012. 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

defaults on the employment, wages, health care or other benefits promised by the recipient in its application for the subsidy.

This bill was referred to the Joint Standing Committee on Taxation.

LD 1571 An Act To Amend the Laws Governing Workers' Compensation

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUSHING COURTNEY	ONTP	

This bill was carried over from the First Regular Session of the 125th Legislature.

It amends provisions of the Maine Workers' Compensation Act of 1992 and procedures of the Workers' Compensation Board.

1. It amends the law to provide for full reimbursement to an employer from proceeds paid by a third party.
2. It amends the selection process for the Workers' Compensation Board. Under current law, the three representatives of labor on the board must be appointed from a list provided by a bona fide labor organization or association of employees. This bill instead requires that one of the three labor members be appointed from that list; the other two labor representatives must be appointed at the discretion of the Governor.
3. It repeals the troubleshooter program established under the Maine Revised Statutes, Title 39-A, section 153, subsection 2.
4. It amends the mediation provision to require that mediation be requested both by the employer and the employee.
5. It eliminates the board's audit and enforcement oversight of the Maine Insurance Guaranty Association.
6. It amends the law to address the decision in *Roy v. Bath Iron Works*, 2008 ME 94, to specifically provide that a subsequent nonwork injury, independent of any work-related injury, and unrelated to any work-related injury, that results in total disability results in a cessation of benefits for the duration of the disability.
7. It specifies that, if an award has been entered, the employer, insurer or group self-insurer may petition the board for a reduction and may not reduce or discontinue benefits until the issuance of a decree by a hearing officer, after which benefits may be reduced or discontinued pending an appeal from the hearing officer's decree.
8. It eliminates the requirement that a physician have an active practice in order to be qualified to conduct a medical examination.
9. It provides that if an employee chooses to have a physician present at an employer-required examination, the employee must pay the cost of that physician.
10. Under current law, in establishing standards, schedules or scales of maximum charges, the board is required to consider maximum charges paid by private third-party payors. This bill requires the board to base those standards, schedules or scales on reasonably and customarily negotiated charges between health care providers and third-party insurers and requires that if standards are not established by October 1, 2011, then charges customarily paid by MaineCare apply.

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

- 11. It amends the laws governing compensation for partial incapacity.
- 12. It repeals provisions of the law requiring the board to adjust the 15% impairment threshold, dates of injury and extension of the period of benefit limitation.
- 13. It provides that an employee who is otherwise retired is not presumed to have a loss of earnings or earning capacity regardless of whether the employee terminates active employment.
- 14. It amends the statute of limitations periods when no first report of injury is required to be filed.
- 15. It amends the law to address the decision in *Larochelle v. Crest Shoe*, 655 A. 2d 1245 (Me 1995) to specify that overpayments made during the pendency of a motion for findings of fact and conclusions of law must be repaid.
- 16. It prohibits the board from assessing a fine against an employer or insurer in excess of \$25,000 unless the employer or insurer intentionally and fraudulently failed to pay compensation.
- 17. It provides that, for injuries occurring after January 1, 2005, lump-sum attorney's fees are paid on the indemnity portion of a settlement.
- 18. It prohibits the assessment of an attorney's fee for the amount of any settlement intended to pay for current or future medical costs.
- 19. It repeals provisions regarding the Supplemental Benefits Fund, which was established to reimburse payments of compensation to employees under provisions governing extended benefits for partial incapacity that are repealed in this bill.

LD 1600 An Act To Provide That Persons Hiring Assistants To Provide Home Care for Relatives Are Not Employers for Purposes of Unemployment Compensation Laws ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WATERHOUSE HASTINGS	ONTP	

This bill provides that personal care services or health care services performed in the home for an individual by a person retained to provide those services by the individual, a family member of the individual or a person sharing a household with the individual are not considered employment for the purposes of the unemployment compensation laws. The bill also corrects cross-references and updates language to incorporate subsequent statutory changes.

**LD 1607 An Act To Preserve the Integrity of the Maine Certified Public Accountant Examination PUBLIC 478
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CUSHING RECTOR	OTP	