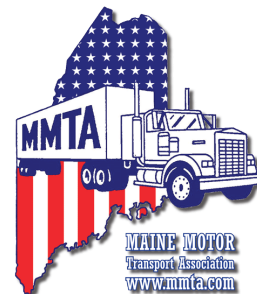


## WORKERS' COMPENSATION LEGISLATION UPDATE – 5/16/19

A work session was held in the Labor & Housing committee on Monday, May 13<sup>th</sup>. There is good news and bad news to report. The good news is that the following bills were all unanimously voted “Ought-Not-To-Pass” out of committee, which effectively kills the bill:



- LD 819 (to enhance predetermination of independent contractors);
- LD 901 (statute of limitations);
- LD 1203 (retirement presumption);
- LD 1205 (to allow full retirement benefits);
- LD 1501 (occupational disease);
- LD 1624 (to prevent discrimination);
- LD 298 (presumption of compensability for heart disease for corrections workers); and
- LD 312 (to prohibit minimum premiums).

The bad news is that the Committee seems strident on some version of the real expensive cost-driver bills passing this session. Here is a list and description of the bills still being pursued that would add considerable cost to the system and undo the delicate balance between systemic costs and the benefits to injured employees:

### **LD 600 - An Act To Achieve Mental Health Parity in Workers' Compensation**

- Reduces the standard of proof for stress claims from “clear and convincing evidence” to “a preponderance of the evidence”.

### **LD 601 - An Act To Create Fairness by Reinstating the Cost-of-living Adjustment for Workers' Compensation Benefits**

- Reinstates the pre 1992 reform practice of benefits automatically adjusting with the state's average weekly wage.

### **LD 758 - An Act To Clarify Work Search Requirements for Workers' Compensation**

- Would change the work search requirement for injured workers to be the responsibility of the employer, not the employee.

### **LD 947 - An Act To Extend the Notice of Injury Period in the Maine Workers' Compensation Act of 1992**

- Current notice requirements are set at 30 days after the date of injury. This bill would extend that to 180 days after the date of injury.

### **LD 1095 - An Act Regarding Workers' Compensation Liens**

- Effectively limits the lien amount an employer/insurer can recover when a third party is found responsible for an employee's injury.

### **LD 1204 - An Act To Eliminate the Cap on Weekly Benefits in Workers' Compensation Cases**

- Would remove the current law's cap on maximum weekly benefits.

**LD 1253 - An Act To Fairly Compensate for Fatal Accidents under the Maine Workers' Compensation Act of 1992**

- Current law limits to 500 weeks the duration of death benefits under the laws governing workers' compensation. This bill removes the 500-week cap.

**LD 1500 - An Act To Improve Workers' Compensation Protection for Injured Workers Whose Employers Have Wrongfully Not Secured Workers' Compensation Insurance**

- This bill creates liability for situations when an employee is injured while working for an uninsured subcontractor.

**LD 1625 - An Act To Eliminate the Durational Cap on Partial Benefits under the Workers' Compensation Laws**

- Current law limits to 520 weeks the duration of workers' compensation benefits for partial incapacity claims. This bill removes that durational cap (potentially lifetime benefits), significantly increasing the value of claims.

These remaining bills will be part of the second workers' compensation bill work session scheduled for Monday, May 20<sup>th</sup> at 9am. At this point, we understand there is a desire by the Governor (second hand information) to consolidate these bills into one omnibus bill – the placeholder bill is set aside as LD 756 – and convene a group of labor representatives, trial attorneys, business interests and insurers to negotiate the omnibus bill's final disposition.

In the meantime, MMTA's position is being made clear with the following "guiding principles":

- We object to any changes that alter the system's current acceptable balance.
- We might consider changes as long as there are offsetting systemic concessions.
- In their current form, the surviving bills are retroactive which is unacceptable because they would create significant unfunded liabilities.
- We support the notion that none of these bills should be carried over to the next legislative session.

We will continue to update members as developments arise. In the meantime, please let us know if you have any questions.