

129th Maine Legislature (first regular Session) Legislative Update



Well, it didn't take long. Predictions of the new legislature introducing a record number of bills turned out to be accurate, many of the proposals impacting the trucking industry, Maine businesses and the Maine economy. Those paying attention to Maine politics recognize how we got here; a new Governor and new majorities in the House and Senate with what appears to be pent up demand for a shift in political priorities.

The most notable priority shift has been to adjust the balance of Maine's sensitive workers' compensation system. There have been dozens of workers' compensation bills printed with most proposing to increase benefits for injured employees at the expense of higher costs for Maine businesses. Taken individually, proponents argue these changes are affordable and necessary to undo the "erosion of our workers comp laws over the last 25 years", as one person testified. The cumulative impact when taken together, however, will mean massive cost increases to the system – a system that has Maine ranked 19th worst (or, 32nd best) compared to all other states and DC. Impacting Maine's businesses, Maine's economy and eventually, Maine's citizen employees.

Compounding this concern are bills that will increase other costs

paid by Maine businesses with the inevitable predictable results. Whether it is requiring paid sick leave, potentially expensive environmental regulations, lawyer-driven lawsuit judgement increases or multiple attempts to tax groundwater – a consistent source of outbound freight for many MMTA members – there are no shortage of ideas at the Statehouse.

The following is a current list of workers' compensation bills we think MMTA members would be interested in. It is by no means an all-inclusive list of all issues because that would take up more space than this update can provide. However, if you have any questions about any specific bill, please feel free to reach out to Tim or Brian. For the bills that have already had a Public Hearing, you can find MMTA's testimony on the Legislature's website – or we would be happy to email it to you upon request.

To read the full text of the bills, go to <http://legislature.maine.gov/> and put in the bill's LD number. You can also find links to contact your elected officials in the House and the Senate. To contact the Governor, visit <https://www.maine.gov/governor/mills/home>.

WORKERS' COMPENSATION (as of 5/2/19)

LD 298 - An Act To Establish a Conditional Presumption of Compensability for Corrections Employees in Cases of Impairment from Hypertension or Heart Disease

- Would presume a heart attack suffered by a corrections officer is work-related if they passed a pre-employment physical that didn't reveal any heart conditions. MMTA's concern is that CDL drivers have medical cards issued and, should this bill pass, it wouldn't be too much of a stretch for it to lower the compensability standard for drivers in the future.

LD 312 - An Act To Reduce the Cost of Workers' Compensation Insurance for Small Employers

- Minimum premiums would be prohibited, making all other employers pay for cost to issue and administer a policy.

LD 580 - An Act To Improve the Advocate Program Established by the Workers' Compensation Board

- Introduced as a "Concept Draft", the generic description of what the bill does would "enact measures designed to strengthen representation for injured workers".

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

- Lowers the standard of proof for a stress claim to be compensable.

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 756 - An Act To Improve the Maine Workers' Compensation Act of 1992

- Another "Concept Draft" with no details other than to serve as the vehicle to "improve the Maine Workers' Compensation Act of 1992".

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 809 - An Act To Expand and Clarify the Disqualification from Workers' Compensation Benefits of an Employee Who Is Injured While Under the Influence of Drugs or Alcohol

- Further clarifies that WC benefits are not allowed if the injured employee is intoxicated (illegal drugs, marijuana or alcohol) compared to the current standard that the injury was caused by the intoxication.

LD 819 - An Act To Enhance the Predetermination of Independent Contractors

- Raises the bar for independent contractors to use the Predetermination form (rebuttable presumption for WC and unemployment) without measurable impact.

LD 901 - An Act To Clarify the Statute of Limitations under the Maine Workers' Compensation Act of 1992

- Broadens the statute of limitations for filing WC petitions.

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

- Limits the lien amount an employer can collect when a third party is responsible for an injury.

LD 1203 - An Act To Clarify the Retirement Presumption under the Maine Workers' Compensation Act of 1992

- Lowers the evidentiary burden on a retired injured worker to maintain higher benefits if their retirement was due in any way to their injury.

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

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

LD 1205 - An Act To Allow Full Retirement Benefits under the Maine Workers' Compensation Act of 1992

- Would remove an employer's ability to offset an injured workers' benefits based on their retirement or pension 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 1385 An Act To Amend the Laws Governing Corrections Officers Who Suffer Certain Injuries, Impairments or Medical Conditions

- Similar to LD 298, heart disease and hypertension suffered by corrections officers would be presumed to be work-related, leaving the door open for other occupations in the future.

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 1501 - An Act To Change the Law Governing Occupational Disease Claims under the Maine Workers' Compensation Act of 1992

- Changes the standards for who is eligible for benefits under Maine's occupational disease law and effectively lowers the thresholds so more people will qualify for these benefits.

LD 1623 - An Act To Improve Employee Representation under the Maine Workers' Compensation Act of 1992 by Amending the Laws Governing Attorney's Fees

- Brings back the "prevail" standard where employers will be required to pay employee attorney fees and also removes the defined computation of attorney fees when it comes to settlements.

LD 1624 - An Act To Prevent Discrimination under the Maine Workers' Compensation Act of 1992

- Current law prohibits discrimination under the Act if the workers' comp. claim is the primary basis for the adverse employment action. This bill would change it to be if the workers' comp. claim is any part of the basis for the adverse employment action.

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.

Issue Filed But Not Yet published as LD:

- **An Act to Establish an Employer's Private Right of Action to Enforce Payment under the WC Coverage**